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CALIFORNIA'S REVOLT AT THE BOTTOM OF THE WAGE SCALE: JUSTICE FOR JANITORS IN LOS ANGELES

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During the last two decades of the 20th century, economists debated the causes of growing wage and income inequality in the U.S.¹ (Katz and Murphy 1991; Levy and Murname 1992) Some of the factors cited were international competition through low-wage imports, labor-market competition due to immigration, erosion of the federal minimum wage, the decline of unionization in the private sector, and changes in technology which put a higher premium on education and skill. Since California represents roughly one eighth of the U.S. economy, presumably these factors might also explain the growth of wage inequality within the state. However, evidence accumulated suggests that California's degree of wage inequality had increased relative to the nation as a whole. The concentration of immigration – legal and illegal – into California suggested that entry of low-wage immigrants into the state, mainly from Mexico and Central America, played a special role in state wage inequality. (Reed 1999)

Whatever the cause, the remedies proposed in California and the U.S. have tended to involve public policies such as increasing the legal minimum wage, passage of local "living wage laws" (which raise wages of workers employed on public contracts), expansion of tax credits aimed at low-wage employees, other changes in tax policy, and broadening of educational opportunities.² With some exceptions (e.g., Freeman 1991a), there has been little focus on the question of unionization of low-wage workers, either at the national or state level. In part, this neglect may have been due to the perception that unions were in a condition of long-term decline. And in part it may have been due to a sense that unionization takes place at the micro level. Particular work groups either unionize - or they don't. If they do unionize, they either succeed in improving their pay levels – or they don't. There has been debate about the degree to which federal labor law affects the U.S. unionization rate relative to rates found in other countries. (Freeman 1991b) But there has not been much attention in recent years to the impact of state labor law.

Certainly at the state level, there is the reality that major laws regulating private-sector union organizing and bargaining are federal and largely pre-empt state action. But this is not entirely true. At the margin, as will be seen below, state laws may affect the outcomes of collective bargaining. And public figures – both officials and significant personalities in the public arena – can also have an influence on union organizing and negotiating. Moreover, public opinion and attitudes have a conditioning role in determining how officials and other public figures react to unionization of the working poor. The history of janitor unionization in Los Angeles in the 1990s and beyond demonstrates this point. Generalized public pressure at the local level can have a notable effect on union representation and the outcome of collective bargaining on pay and conditions for low-wage workers.

Demographic Change and Union Response

In the early 1990s, the outlook for unions throughout the U.S. was clearly bleak. Large absolute losses of membership had occurred in the prior decade in private employment. Unionization in government had not declined but government employment was not a growth sector. Unionization of the workforce was continuing to slip. If there was a bright spot, it was institutional rather than statistical. At the AFL-CIO, the umbrella organization for most American unions, a change at the top occurred in the mid-1990s. John Sweeney, president of the Service Employees International Union (SEIU), became president of the AFL-CIO and placed renewed emphasis on organizing new members. Sweeney's rise to power at the AFL-CIO was due in large part to the success of his union in Los Angeles in re-organizing janitors in large office buildings through the so-called "Justice for Janitors" (JfJ) campaign.

Any effort at new union organizing had to take account of changing American demographics, and California was leading the nation in that change. In 1960, before the liberalization of U.S. immigration law, about 5% of the American population was foreign-born. By the end of the 20th century, that proportion was heading toward 10%. Immigrants tend to be young and looking for work. Thus, the proportion of the U.S. labor force that was foreign-born was still higher, about 12%.³ Within the foreign-born population, about 45% were Latino. And about a third of the Latino population in the U.S. (foreign-born or not) lived in California. Latino workers were disproportionately concentrated at the low end of the wage scale. And they tended to have lower rates of union representation than the overall workforce. Nonetheless, the Latino union-representation rate was rising; it stood at 6% in 1980 and moved to about 9% by the end of the century. About one fourth of workers in "services to dwellings and other buildings" were Latino.

Inequality of Income

As noted, California exhibited a rise in income inequality beginning in the 1970s. In the Los Angeles area, the contrast in income levels is easy to detect without a statistical tabulation. High-priced homes are scattered throughout the westside of Los Angeles County in well-known communities such as Bel Air and Beverly Hills. Eastside L.A. - with its heavy concentration of Latinos and immigrants - is not so well known, but includes many low-income persons as residents. The multi-media economic boom of the late 1990s reversed the economic slump that afflicted Southern California in the first half of the decade. But the impact was felt more heavily on the prosperous westside than in other areas, thereby widening the income gap.

Public Attitudes Toward New Immigrants

California voters were frightened by the L.A. riots of 1992 and 1994 TV gubernatorial campaign ad images of hoards of immigrants illegally crossing the border with Mexico. Immigrants were blamed for the social unrest and the unemployment then prevailing. One outcome was passage of Proposition 187 in 1994 - since largely voided by the courts - that would have blocked public services to undocumented immigrants. But public opinion was variable and could be sympathetic to the plight of low-wage workers living in poverty. This potential for a sympathetic public mobilization played an important part in the JfJ saga. The same initiative process that led to Prop 187 also produced a voter-mandated increase in the state minimum wage in 1996 (under Prop 210). Living wage ordinances in various jurisdictions including the City and County of Los Angeles could not have been enacted without public

support. In any event, the economic expansion in California in the late 1990s seemed to soften public hostility toward immigrants. Attempts to put a revised version of Prop 187 on the ballot failed for lack of sufficient petition signatures. And by spring 2001, a fictionalized feature film depicting the Justice for Janitors campaign – *Bread and Roses* – was playing in Los Angeles movie theaters.⁴

The Building Services Industry in Los Angeles

During the 1980s, the building services industry in Los Angeles became largely nonunion. Before then, janitors in major buildings in downtown L.A. and other commercial centers had been represented by SEIU and received relatively high pay and benefits for unskilled work. The major contract cleaning service firms shifted in the 1980s from a largely native (and often black) workforce to immigrant Latinos paid at or close to the minimum wage. Only a few downtown high rises remained unionized. This de-unionization of janitors in L.A. provoked no particular outcry from the political establishment or the general public. It was part of the general de-unionization seen in California and throughout the U.S. The tendency was to view de-unionization as part of some amorphous “globalization” or other blind forces and regard it as inevitable.

For SEIU to try and re-unionize the new janitorial workforce seemed an impossible task. Members of the new workforce were scattered throughout the city and vulnerable to threats of deportation if they made trouble. Their English-language skills were limited. Even if the union somehow did win recognition from a cleaning service firm, success might be fleeting. Higher union wages would mean higher costs to building owners and managers, who could quickly switch to a nonunion cleaning service. Indeed, even the remaining unionized firms created nonunion subsidiaries to bid for business.

While other American industries also de-unionized during this period, the distinguishing feature of the janitors’ story is that they succeeded, against the odds, in re-unionizing their industry in the 1990s. At this writing, there have been three rounds of contract negotiations since the re-unionization. Wages and benefits have been improved. The success of the janitors in L.A. office buildings has spilled over into once-conservative Orange County, where the SEIU has been recognized. It also spilled over from the office building sector to supermarkets in the Los Angeles area. Janitors employed by cleaning companies that service supermarkets are also being unionized.

An interesting issue is whether the success story for janitors is relevant to other industries and other groups of workers. Is it relevant for other groups of low-wage workers in sectors such as hotels, restaurants, and apparel manufacturing in California? California had about 2.3 million union members in 2000, the largest bloc of unionized workers in any state. Roughly half of these workers were located in the Southern California region. To what extent might this base become a nucleus for improving the welfare of those at the bottom of the state’s income scale?

Early History of Building Services Unionization

Los Angeles during the first three decades of the 20th century was a center of fierce employer resistance to unionization. But after the World War II period, the labor relations climate had become less hostile. The postwar labor movement was able to grow and prosper in

Los Angeles, although it often did so using top-down organizing methods. Among the unions that made organizing progress in Los Angeles in this era was the Building Service Employees International Union (BSEIU). At the national level, the building service union's members primarily consisted of janitors, window washers, elevator operators, guards, and other service workers employed in apartment buildings, hotels, office buildings and a variety of commercial establishments such as theaters, bowling alleys, and markets, as well as in some government buildings. In San Francisco the BSEIU also had begun organizing hospital workers, who would later become a major part of the union's membership all over the nation. (Fink 1977: 344-45)

Unlike some skilled craft unions in construction and other trades, the BSEIU "represented what its old-timers characterized... as the dregs of the labor force," as Michael Piore (1994: 525) observed. The construction unions helped the janitors' organizing get started, concerned that so many of the office and apartment buildings their members had built were being maintained by non-union labor. Thus, the Plumbers' union sponsored the petition for the BSEIU's AFL charter.⁵ (Ransom 1980: 2; see also Beadling et al 1992: 5) "That these workers were organized at all was due to the fact that they worked in an industry in which other AFL craft unions were strong and, in the beginning at least, in which workers were, like those in the more traditional crafts, ethnic Catholics," Piore (1994: 525) reports. African Americans also were an important part of the janitors' union membership from the earliest period, and their representation would expand during and after World War II. The BSEIU was a prime historical example that challenges "the standard historical portrait of the AFL as passive, stodgy, and little interested in reaching out to those beyond its ranks." (Cobble 1997: 289)

Union Origins

The BSEIU was founded in 1921, building on the Chicago Flat Janitors' Union and some smaller AFL-chartered Federal Labor Unions around the country.⁶ The Chicago apartment building janitors had been organized for a decade. In 1918, Chicago janitors won a "closed shop" agreement from the city's real estate board, and they enjoyed significant political influence in the city as well.⁷ Janitorial membership in Chicago overshadowed that in other cities in the 1920s; the second largest BSEIU local was made up of New York City elevator operators. In this period, the BSEIU had no presence whatsoever in Los Angeles. (Jentz 1997; Beadling et al 1992)

Membership in the national union took off in the 1930s, with major strikes and organizing campaigns in New York City and San Francisco.⁸ The union grew from 10,000 to 40,000 members nationally between 1933 and 1937, mostly in New York, then swelled to 70,000 by 1940. (Beadling et al 1992: 33-34) While in the 1920s, the construction trades had helped the BSEIU become established, now it was the Teamsters that supplied critical support for BSEIU organizing. In both New York and San Francisco, truckers' refusal to make deliveries to buildings where janitors and other service workers were on strike pressured employers into union recognition during the turbulent 1930s. ("Going Up!" 1955: 53; Ransom 1980: 7)

California Developments

After a breakthrough in janitorial organizing in San Francisco, the BSEIU sought to extend its reach throughout California in the late 1930s. But in Los Angeles, the union made little progress with the exception of workers covered by statewide contracts at the Fox movie

theater chain and at the Bank of America. (Ransom 1980: 7, 11) During this period, the national BSEIU fell into the hands of racketeers in Chicago and New York. However, after a brief reign these criminal elements were prosecuted and imprisoned. In 1940, the union made a fresh start with a new, respectable leadership. (Jentz 1997; Beadling et al 1992) The BSEIU was in the mainstream of AFL “business unionism.”⁹ According to the union’s official history:

As an AFL member union, BSEIU had opposed the comparatively militant “pie in the sky” organizing favored by some unions, feeling that such an approach encouraged members to seek more than they could get. When some AFL unions had defected to the new and seemingly more militant CIO during the labor schism of 1935-36, BSEIU’s allegiance was never in doubt. Such militancy as the CIO espoused tended to confirm the public’s view that organized labor could not act responsibly, McFetridge [then BSEIU President] felt, and he continued to preach a gospel of harmony between labor and management... (Beadling et al 1992: 37)

By 1945, BSEIU’s national membership stood at nearly 100,000. The union’s growth continued in the post-World War II years, with membership doubling between 1945 and 1950. It was in this era that the BSEIU finally began to make progress in organizing Los Angeles janitors and other building service workers. The effort was spearheaded by George Hardy whose father also had been a prominent leader of BSEIU in San Francisco. He moved to Los Angeles in 1946 to tackle the formidable task of expanding the union into the area. Hardy, who would later become the BSEIU national president, boasted at the union’s 1950 convention that with unionization in L.A. “have come tremendous improvements in wages, hours, and working conditions – wage increases that approximate 40 percent during the past four years [1946-1950].” (Building Service Employees’ International Union, Proceedings 1950: 102-103)

In short, Hardy’s organizing efforts proved successful. In 1945, there were three small BSEIU locals in Los Angeles with about 2,800 members; by 1950 there were eight locals in the city and membership had tripled. Expansion continued during the 1950s. Local 399, the main building service union in Los Angeles, had 5,000 members in 1950, 7,000 in 1955, and 11,000 in 1960. By 1959, Local 399 was the second largest local in the national BSEIU. In this period the union also began to expand beyond building service workers, organizing in the government sector as well as among health care workers. By 1960, the BSEIU had 20,000 members in Los Angeles, over a third of them on public payrolls. (Beadling et al 1992: 21, 34, 43; Building Service Employees’ International Union, Proceedings 1950: 10; 1955: 133; 1960: 190; Building Service Employees’ International Union, Report to Locals, Nov. 1950: 2)

The union expanded its membership in Los Angeles in the late 1940s and early 1950s primarily by means of a “shoe leather strategy,” signing up workers in a wide variety of settings, one at a time, and then approaching their employers with demands for recognition and union contracts. In this fashion, Local 399 came to represent janitors in bowling alleys, supermarkets, hotels, apartment buildings, auditoriums, YMCAs, private clubs and eventually hospitals, as well as from its traditional jurisdiction in large downtown office buildings. Some non-janitorial workers were also brought into Local 399, such as gardeners. Another local represented janitors and other blue-collar employees in the public schools. The Los Angeles BSEIU ultimately negotiated dozens of different contracts with a wide variety of employers and acquired a

reputation for “organizing anything that moves.” (Ransom 1980: 11; Eliaser 1998: 50-51; Building Service Employees’ International Union, Report to Locals, various issues)

According to one BSEIU staff member, Hardy’s determination to build the union in the Southland met with minimal resistance from employers at the time. “There was kind of a euphoric period after World War II, there were boom times, and the attitude was, ‘Okay, we don’t want labor war, we want labor peace,’” he explained. Indeed, although the union’s organizing techniques did involve extensive direct recruitment of rank-and-file workers, in this period it seldom had to mobilize them into displays of labor militancy. “In many cases we just went and signed up the people, then we’d go to the contractor and tell him, ‘We’ve got your people.’ And they didn’t want a problem at the time,” a staff member reported. “I don’t remember any big strikes.” The BSEIU would picket job sites if it met with resistance, however. And, as in the 1930s, it could leverage Teamster support to pressure organizing targets by withholding trucking services. There were also incidents of coercion and vandalism. (Tsukashima 1998: 385-87)

Los Angeles Janitors in the 1950s

About a third of the city’s large office buildings had been unionized by the early 1950s, according to a survey of the Associated Building Managers of Los Angeles. Most building owners hired janitors and other service employees directly, rather than using outside contractors. In 1956, another management survey found that 72 percent of the city’s office cleaners, 88 percent of its elevator operators, and 93 percent of its watchmen were the direct employees of building owners. (Building Service Employees’ International Union, Report to Locals, June 1956: 2) The BSEIU also organized many of Los Angeles’ large-scale janitorial contractors, mainly those that were profitable enough to make concessions. (Mines and Avila 1992: 435)

Los Angeles BSEIU members benefited substantially from union representation. Janitorial work often had been structured as part-time employment. But the union successfully pressed to transform the jobs into full-time positions. (Mines and Avila 1992: 436) Pay was boosted and by the mid-1950s health and welfare plans had become standard for BSEIU members in Los Angeles. For some groups of workers, pension plans were added as well. (Building Service Employees’ International Union, Proceedings, 1955: 134) However, wages and benefits remained higher in New York, Chicago and San Francisco, where union coverage in building services was more extensive. (Building Service Employees’ International Union, Report to Locals, Oct. 1955: 2-3.)

Membership Diversity

The BSEIU was notable for its racial and ethnic diversity, a tradition that went back to the original Chicago Flat Janitors’ union, in which immigrants and African Americans had been the majority of the membership and in which black leaders had been prominent. (Jentz 1997: 7) Janitorial work in many cities where the BSEIU was strong became an employment niche for African Americans by the 1940s and 1950s, and African Americans were at the core of the union’s membership as well. In 1950, half the members of Los Angeles’ main janitorial local were African American, and another 9 percent were Mexican. (Greer 1959: 175)

Even more remarkably, given the long history of hostility toward Asian-origin immigrants in the California labor movement, some 800 Japanese-American gardeners became members of BSEIU Local 399 in the early 1950s. This unit was a case of top-down organizing; the previously independent gardeners, who had no love for organized labor, were forcibly incorporated into the union, although after capitulating they did win considerable autonomy within the local.¹⁰ (Beadling et al 1992: 41; Tsukashima 1998: 385-87) The gardener example captures the paradoxical character of the BSEIU in this period: it was a conservative AFL business union in many respects, and did not hesitate to use coercive, top-down organizing tactics. But its focus on “the dregs” of the workforce thrust it into direct confrontation with racial and ethnic divisions prevalent in the larger society. The BSEIU was a highly adaptable labor organization, a characteristic that would serve it well in later years, when unions would no longer be blessed with the favorable social and political conditions of the immediate post-World War II period.

Developments in the 1980s

SEIU had success organizing janitorial workers in Los Angeles from just after World War II through the late 1970s. Janitorial membership in its Local 399 peaked at about five thousand in 1978; total compensation in the union sector rose to \$12.00 an hour by 1982, compared to \$4.00 in the nonunion buildings. At the time, local and national concern about economic developments was focused largely on inflation. Wage-price controls under the Nixon administration were imposed during 1971-1974. A looser form of voluntary wage-price guidelines was also developed under President Carter. In California, and especially in Los Angeles, the inflation of home prices brought with it large increases in property tax bills, sparking a taxpayer rebellion and Proposition 13’s caps on property and other taxes. There was little focus, either in California or at the national level, on the issue of wage/income inequality. Immigration had accelerated, but had only begun to register as a political issue.

Unionization as a fraction of the private workforce was slipping, even in the 1970s. But in California and other states, attention was diverted to the public sector where unions were expanding. Legislation in California was enacted in the late 1970s and early 1980s providing a regulatory framework for collective bargaining of state and local government workers. Unionization thus increased in K-12 and higher education, protective service workers (police and fire), and general government.

Los Angeles experienced an office building boom, particularly in the central city area, during the 1980s. Tax breaks and foreign investment (especially from Japan) played an important role in the downtown boom. By itself, the building boom should have been favorable to unionization of janitorial workers since it created more demand for cleaning personnel in the new office complexes. But in fact the 1980s were a period of de-unionization of Los Angeles’ building services, as noted earlier. By 1985, janitorial membership in Los Angeles fell to 1,800.

The Causes of Union Decline

As with other economic phenomena, the causes of union decline can be decomposed into demand and supply influences. There were changes in the structure of employers in the industry (demand) and changes in the workforce (supply). Outsourcing of building services by owners and managers had become the rule. Owners and managers no longer employed their janitorial personnel directly. Cleaning labor costs as a fraction of *total* building operating costs are small.

But labor costs are a major element of the cleaning services themselves. As Chart 1 shows, for the smallest cleaning service firms, such costs absorbed over 40% of sales revenue; for the largest, over three fourths. The positive correlation with size is due to the spread of overhead expenses (administration, marketing, etc.) over a larger volume of sales for the bigger firms.¹¹ Note that such economies of scale are conducive to competitive advantage of large firms.

Contracts between building owners or managers and their cleaning service contractors are written to permit short notice of termination, typically 30 days. Thus, union members can lose work almost overnight if a building owner or manager switches from a union to a nonunion cleaning service. SEIU Local 399's past ability to improve or maintain conditions and compensation relative to nonunion standards provided an incentive for cleaning contractors to explore nonunion options by the early 1980s. The unionized part of the industry - made up of the larger buildings was put under particular cost pressure, as building owners and managers sought to obtain cheaper cleaning services. The big cleaning service operators, as noted above, enjoy economies of scale. But once a firm meets a certain size/asset threshold (needed to cover payroll and insurance costs), there are few additional economies of scale, and none on the labor side. It's hard to pass on wage increases to building owners and managers in a fiercely competitive industry.

The last L.A. master union agreement prior to the JfJ campaign was signed by SEIU Local 399 in 1983. Shortly thereafter, all increases in wages and benefits were frozen in response to the city's slide toward nonunion building services. A desire to retain members led the union to agree to a proliferation of concession side agreements. Only downtown retained a unionized workforce of measurable proportions. But even there, union ranks barely attained 30 percent of the major buildings. County-wide, the situation was more dismal, with less than one janitor in ten a member of Local 399. While the local had been recruiting Kaiser hospital workers during this period, so that its total membership continued to grow, its janitorial membership fell and wages declined. Eventually, the union's local leadership came to see health care as the source of its salvation and the janitorial labor market as a lost cause. While it wouldn't abandon the remaining janitors it had, Local 399 was not about to mount a major effort to organize new janitorial members.

Of course, the janitorial situation cannot be seen in isolation. All around the U.S. in former union strongholds such as automobile manufacturing, steel, construction, and airlines, unions were losing membership and negotiating concessions. Apart from aerospace, which continued to be a growth area until the end of the Cold War, Southern California was experiencing erosion and plant closings in heavy manufacturing. Against this backdrop, it is not surprising that officials of Local 399 would be pessimistic about any prospects for re-unionizing area janitors.

New Construction and Related Employment

About one third of L.A.'s current office space was built after 1980. The building services industry - but not the union - expanded with the construction boom, employing 28,883 janitors by 1990, more than twice as many as in 1980 by census count. However, the backgrounds of the janitors were different in the 1980s and 1990s compared to earlier periods. In 1970, African Americans made up a third of the L.A. region's janitors. Up until the early 1980s they comprised half of Local 399's members. Almost all of the new janitorial jobs created during the

1980s went to Latino immigrants, mostly from Mexico and Central America, whose share of employment rose from 28 to 61 percent from 1980 to 1990. Due to industry expansion, net African American employment essentially held steady. But in relative terms, (native-born) African Americans slipped badly, declining from 31 to 12 percent of the workforce. Native-born whites also lost share, dropping from 24 to 11 percent.

The janitorial workforce in the L.A. area had become Latino by the 1990s. At the same time, there was a notable change in the gender composition of the janitorial workforce. In 1980, 60 percent of the Mexican/Central American janitors were women, and the huge gains made over the next ten years left that ratio virtually unchanged. Women comprised 30 percent of Mexican immigrant janitors in 1980, and this grew to 43 percent a decade later. Meanwhile, among African American workers still in the occupation, the proportion of women fell. Any campaign to re-unionize the industry in L.A. would inherently have to be an immigrant-based effort, often focused on women.

JfJ Tactics and Strategy

In the mid-1980s, national officials of the SEIU were faced with a perilous situation. Though the founding janitorial locals (Chicago, New York, and San Francisco) were still holding fast, the rest of the building services division was in deep trouble, losing ground to non-union competitors, and forced to make concessions to unionized employers. Local leaders were not prepared to mount an effort to reverse the decline. A strategy now known as "Justice for Janitors" emerged gradually and relied initially on resources from the national union.

JfJ arrived in L.A. at Local 399 in 1988. As noted, the local represented health care workers, mainly at Kaiser, the giant health maintenance organization along with the residual janitors who remained unionized. Since the local had decided to focus on Kaiser and health care where most of its members now worked, JfJ was essentially imported and imposed by the national SEIU on the local. This process of top-down imposition led to later tensions, as might be expected.

The JfJ Campaign in Los Angeles

The Los Angeles JfJ campaign began in the downtown area in the hands of union representatives who were placed by national SEIU into the local. It had to deal with both representing the atrophied union base of janitors and organizing janitors in nearby non-union buildings. The plan entailed targeting the nonunion wings of "double-breasted" cleaning service companies and other nonunion operators. Unionized firms were permitted to pick up work at low rates so they could compete with the nonunion services, with the understanding that they would move to union standards once half of the market was organized. Gradually, a variety of unorthodox tactics became part of the campaign.

Essentially, JfJ tactics aim at building owners/managers, even though the formal employer of the janitors is the building service contractor. The objective of JfJ is to pressure owners or managers to use union contractors paying union-scale wages. Pressure on the contractors directly is ineffective since they are readily replaced by lower-cost nonunion contractors, even if they should agree to union representation and terms. The approach to representation ensconced in U.S. labor law - a National Labor Relations Board (NLRB) election

held for workers of the formal employer - became ineffective once building services were detached from owners/managers through contracting. But if owners and managers agreed to use unionized contractors, the barrier to the union would be removed. In effect, a reserved market for union contractors would be created.

Industry Concentration in Cleaning Services

Even if there were a reserved market, it might seem that organizing one cleaning service at a time would be impractical. There are many such services in the Los Angeles area, but very few have large numbers of janitors in their employ. And since the capital costs of operating in the building services industry are low - essentially acquisition of vacuum cleaners and waxing machines - entrance to the industry is technically easy. However, the industry is surprisingly concentrated in the submarket that exists for major buildings and complexes. This concentration proved to be an important advantage for JfJ tactics. In the mid-1990s, the two largest firms - American Building Maintenance (known as ABM) and International Service Systems (ISS) - accounted for over a fourth of all janitorial employment in the Los Angeles area; the top 21 firms accounted for over a third, and the proportion was much higher if only janitors at major "Class A" buildings are included. In the large building submarket, the two firms were the major players.

The reason for this high concentration is that the main concern for owners/managers is trust. Cleaning service personnel are given the keys at night to office and other buildings containing valuable equipment and records (and valuable tenants who would be upset if their equipment and records disappeared or were damaged). Mom and pop operators cannot necessarily be trusted to do the cleaning job while preventing theft or damage. Owners/managers want to entrust their buildings to cleaning services with a reputation for proper service that will keep tenants pleased. And since owners/managers often have properties in more than one U.S. city - even more than one country - they look for building service firms with which they have dealt satisfactorily elsewhere. The union reasoned that if agreement could be reached with ABM and ISS, other smaller contractors would follow and L.A.'s major office centers could be re-unionized.

Once begun, the JfJ campaign made slow but steady progress. By April 1989, Local 399 had negotiated a new master agreement, the first in downtown L.A. since the early 1980s. In the summer of 1989, the campaign's focus shifted to Century City, a large Westside office complex, employing 400 janitors, of whom 250 were employed by ISS.¹² JfJ marshaled a variety of public tactics to put pressure on ISS. As it had done downtown earlier on, JfJ staged various "in your face" publicity stunts to draw the attention of Century City building tenants to the janitors' economic plight. Tenants complained to building managers about JfJ activities and even expressed sympathy for the janitors. By the end of the 1980s, the issue of wage inequality and the situation of the working poor was already becoming salient. Tenant complaints and sympathies indirectly intensified pressure on ISS.

Turning Point: The Century City Incident

In late spring 1990, the pace of activity escalated sharply when the union decided to stage a strike. A major turning point occurred on June 15, 1990. Los Angeles police attacked a peaceful march of JfJ strikers and supporters as they walked from nearby Beverly Hills to

Century City. With the media spotlight on Century City (and recorded on videotape), the police charged the crowd, injuring many, including children and pregnant women. Organizers initially feared that workers would be intimidated, but at a strikers' meeting shortly after the episode, it became clear that the police action had strengthened workers' resolve to continue. Moreover, the media coverage had changed the balance of forces.

Los Angeles had become a politically liberal city by the late 1980s. Public outrage at the televised police attack brought local politicians into the janitors' dispute, including the mayor, Tom Bradley. And in New York City, after seeing a video of police beating strikers, Gus Bevona, the powerful president of SEIU Local 32B-32J (who was facing a significant dissident movement in his local at the time), took action. Previously, he had been unwilling to exert pressure on ISS, which was unionized in New York. But after seeing the video, Bevona reportedly called the president of ISS into his office and insisted that a deal be reached.¹³ The Los Angeles contract with ISS was signed on that day and subsequently was extended to ABM and other cleaning services.

Secondary Boycott Problems

One of the most important legal obstacles to organizing and economic pressure for janitors is the federal labor law's prohibition on secondary boycotts. Federal labor law in principle protects the rights of workers to use strikes and picketing to pressure their own employers directly. But it prohibits the use of pressure against any other business for the purpose of inducing it to cease doing business with the employees' own employer (NLRA § 8(b)(4)). This prohibition on secondary pressure is an acute problem for janitors for two reasons. First, many janitors work in office buildings where there are a number of employers. As a result, protests outside the building may be deemed to be pressure against employers other than the janitors' own. Second, janitors might be prohibited from pressuring building owners because the building service contractors, not the owners, are the janitors' employer and the owners might be deemed to be secondary employers. This is the more critical problem.

While the NLRB, contractors, owners, and union have litigated relatively few secondary boycott cases all the way to a final, published decision over the course of the 15-year JfJ campaign nationwide, many secondary boycott charges have been filed (most were settled).¹⁴ Some decisions gave the union good reason to be concerned. In a 1993 decision ruling on the permissibility of JfJ tactics in San Francisco, the NLRB ruled that picketing outside the office buildings in which nonunion firms had been hired to replace unionized janitors was an illegal secondary boycott. The Board found that the target of the protest was not the building owners' choice to eliminate the unionized janitors. Rather, according to the Board, it was the nonunion status of the contractors who were not the employers of the picketing janitors. In the Board's view, the secondary boycott law prohibited the union from protesting at the building when its "real" complaint was the nonunion status of the contractor hired to clean the building (*West Bay Building Maintenance Company*, 312 NLRB 715 (1993)).

The penalties for secondary boycotts can be severe. The NLRB has the authority to obtain an injunction from a federal court (NLRA § 10(l)). In addition, any person whose business or property is injured by an illegal secondary boycott can seek damages for its loss from the union that authorized or supported the illegal conduct. In such cases, the court may award

triple the actual damages (LMRA § 303). Union leaders generally believed that neither the NLRB nor the courts were sympathetic to the concerns of the janitors. They believed, therefore, that the workers could not rely on law to protect their protest activities. Secondary boycott law therefore requires the union to exercise caution and restraint in conducting protests. As will be explained below, the union succeeded in doing so in the past in Los Angeles (including the 2000 strike).

Contents of the First Contract

The initial contract with ISS resulting from the Century City events ran for 22 months and covered only 200 workers.¹⁵ These workers averaged \$4.50 an hour at the time the agreement was concluded. The contract provided for a 30-cent increase or a wage of \$5.20, whichever was greater. A second increase of 20 cents or \$5.50 was scheduled for April 1991. However, by the time the second increase was due, the ISS contract was superseded in March 1991 by an extended 3-year agreement also covering ABM's nonunion Bradford subsidiary.¹⁶ This new contract covered 5,000 to 6,000 workers. It added dental and drug coverage to the health plan and provided wage increases of 20-45 cents per hour in each of the three years, depending on location.

One notable aspect of these initial contracts (the downtown master agreement negotiated in April 1989, and the ISS and ABM contracts negotiated subsequent to the Century City events) is that they allowed for a tiered wage/benefit structure. The highest wages and benefits cover the Downtown and Century City areas. As contract coverage moved away from the core office areas to the Wilshire corridor, Santa Monica, Culver City, the South Bay, the San Fernando Valley, the San Gabriel Valley, and other outlying areas of Los Angeles County, lower wages were allowed. The lower tiers reflected the reality of stronger nonunion competition away from the core areas. However, this tiered wage/benefit structure - and the union's goal of wage/benefit parity across the region - became a major issue in later contract negotiations.

Even with the tiers, the new contract settlements were hailed as a major victory for the Southern California labor movement and for immigrant unionism in particular. When the new regime took over at the AFL-CIO in the mid-1990s, Los Angeles was seen as a model for unions in the rest of the U.S.¹⁷ The city had the multicultural labor force of the future. And the janitors, at least, succeeded in establishing a new model of union organizing within that labor force.

All did not go smoothly thereafter for Local 399, however. Not long after the initial JfJ organizing victory, SEIU Local 399 broke into feuding factions. The division was partly along health care vs. janitor lines and partly along ethnic lines; many of the original JfJ organizers were Anglos, albeit Spanish-speaking Anglos. One of the issues raised was the focus of the JfJ effort in the future. Should the union's attention now turn to day-to-day contract administration, for example, the handling of grievances of the newly-covered members? Or should the focus continue to be new organizing, perhaps expanding to outlying geographic areas and even to nonunion Orange County? Tensions arose within the union between those members who wanted to continue active organization of nonunion areas and those who wanted to consolidate prior gains and ensure that unionized workers felt adequately serviced. Ultimately, these internal disputes became so severe that the national SEIU put Local 399 in trusteeship on September 14, 1995.¹⁸ A restructuring of the local occurred in which the janitors were separated from Local

399. They were made part of Local 1877, a San Jose local for janitors in the Silicon Valley, Oakland, and Sacramento which also utilizes JfJ tactics.

There were also serious concerns among the janitors about the issue of immigration status. Prior to the Immigration Reform and Control Act of 1986 (IRCA), employers were not in violation of the law if they knowingly hired illegal immigrants. The legal violation of working without appropriate papers was deemed committed by the employee, not the employer. This pre-IRCA policy gave employers seeking to avoid unionization a potential weapon. They could call in the Immigration and Naturalization Service (INS) to remove any union sympathizers or threaten to do so. Since IRCA made knowing hiring of illegal immigrants a violation of law by employers, in principle such employers were deprived of this weapon. Calling in the INS would be an acknowledgment that they themselves had committed an illegal act and subject them to penalties. In practice, however, employees do not always know about the employer provisions of IRCA; they may still be intimidated by threats concerning their immigration status.

Subsequent janitorial union contracts in Los Angeles have dealt with immigration concerns in detail, by obligating the employer to notify the union by phone if an INS agent appears on or near the premises. Employers are forbidden to disclose any information about employees to the INS unless required by law. Reinstatement to his or her job is required for an employee who is absent from work for up to 7 days due to immigration hearings. Employees who lawfully change their names or their Social Security numbers cannot be penalized. And there is a catch-all protection against discharge or discipline in the case of a worker absent for up to 7 days due to circumstances beyond his/her control.

Restructuring the Local Union

In spite of the successful conclusion of the janitors' second contract fight in 1995 (detailed below), major internal conflicts within the union were unfolding. Divisions among the membership were one source of conflict as SEIU Local #399 had become predominantly a union of health care workers employed by Kaiser Hospitals. Janitors employed by the building service industry constituted a much smaller groups within the union. The hospital workers and janitors were not only employed in separate industries, but also were significantly different in ethnic makeup.

Kaiser Hospital workers were racially and ethnically diverse, although mainly U.S.-born. They included health care workers with a range of skills and experience. All enjoyed the benefits of a long-term, stable union contract with Kaiser that provided decent wages and full family health benefits.¹⁹ Janitors, on the other hand, were almost exclusively Latino immigrants from Mexico and Central America, and often monolingual in Spanish. Many janitors were undocumented workers, and all received poverty wages with little or no benefits. In short, they represented the new working poor of Los Angeles in contrast to the better-paid Kaiser workers.

Beyond the income differences, the Justice for Janitors campaign was detached from the rest of the union. As noted earlier, the initial organizers were outside the structure of the local union. Indeed, some of the organizers credit the success of the campaign to that fact. It is difficult to induce an existing union bureaucracy to embrace an organizing agenda, especially if the target involves a workforce and industry different from the existing membership. But as a

consequence, the tradition of activism and militancy embraced by the Justice for Janitors campaigners was not the culture shared by the rest of the union. Some rank-and-file janitors accused the JfJ leadership of failing to provide good representation to the members and having heavy-handed leadership styles that inhibited democracy. These critics demanded that more Latino janitors be hired on staff.

Eventually, the dissident group became known as “reformistas” and openly campaigned to unseat the union leadership. Reformistas used some of the tactics against the union leadership that the union had used against management, including confrontational campaigns and disruptive protests. At one point, they staged a sit-in demonstration and camped out in the local union’s parking lot. Shortly after the contract was signed in 1995, officer elections were held within the union. The reformistas ran a slate and won most of the leadership seats with the exception of the local union presidency. They did not oppose SEIU Local #399 President Jim Zellers. Reformistas attempted to take control of the union finances, remove the union’s professional staff, and replace them with supporters of their new slate. The internal battles that ensued led to paralysis and trusteeship by the national union in June 1995.

Under the trusteeship, the existing leadership was removed from office. Mike Garcia, President of SEIU Local #1877 in Northern California, was appointed as trustee for a period that turned out to last 18 months. During that time, the local union restructured and divided itself in two, splitting off the health care and building services divisions into separate entities. The entity representing the janitors was consolidated into a statewide union, which merged with Garcia’s Northern California Local #1877. Also included in the expanded local were janitors from several other California cities, including San Jose, Oakland, and Sacramento. This statewide consolidation was also in line with the union’s industry-wide and regional approach to organizing. It also ended the Kaiser-workers-vs.-janitors tensions.

Round II: A Second Contract

At the time of the second round of contract negotiations in 1995, various uncertainties existed for the outcome.²⁰ An important question at the time was whether the first settlement was based on a one-shot, unique event – the Century City incident and its aftermath. Or was that initial contract the beginning of a sustainable labor-management relationship? Post-Century City internal factions suggested a potential weakness in bargaining power for the union. As it turned out, however, the relationship between union and management was sustained.

Economic Conditions Surrounding Round II

At the time the second round of contract negotiations took place, the Los Angeles economy was in a major slump with high vacancy rates in commercial office buildings. Total employment of janitors in L.A. County was about at the level it had attained in 1990. Rents for office space in L.A. County were beginning to recover after a 4-year decline but were still below 1990 levels. (Howard 2000a) This economic factor was a wild card in the negotiations. On the one hand, it could be argued that building owners pinched by excess capacity would put pressure on their cleaning contractors to hold down labor costs. But on the other hand, owners would not like to have their (scarce) tenants unnerved or annoyed by public demonstrations of angry janitors.

Changes in Building Ownership Patterns

The identity of the building owners also added an element of uncertainty to the negotiating outcome. Buildings that had been bought or developed in the booming 1980s were not yielding the expected rates of return that would allow repayment of lenders. Foreign investors, especially Japanese, had paid inflated prices for Los Angeles real estate and were losing control of their properties to financial institutions. By 1997, only two major Japanese firms – Shuwa and Matsui – remained in L.A. County with a total of eleven buildings. And they were trying to bail out of their remaining holdings. In contrast, by that time Met Life, John Hancock, and TIAA – financial institutions - had 17 buildings. (Fulmer 1997) The new owners did not have the earlier experience of dealing with the union in Round I. Would they be more or less sensitive to the potential for public pressure entailed in JfJ tactics? Would they be responsive to the changing ethnic composition of the L.A. workforce and growing concern about the working poor?

Backloading the Round II Contract

As it turned out, the negotiations for the second contract went smoothly, despite these uncertainties. The result was a five-year agreement – a duration longer than the typical union contract. But the outcome of Round II raised uncertainties for Round III to take place in the year 2000. As Table 1 and Chart 2 show, the contract broke down Los Angeles County into enumerated regions with different wage and benefit levels for each area. The more outlying geographical locations had lower wages specified than the core downtown/Century City area. Outlying areas tend to have smaller buildings, smaller owners, and smaller cleaning companies, competitive factors reflected in the lower pay differential. However, the Round II contract contained a significant element of backloading in the form of the addition of health insurance in February 2000, shortly before the contract expired. It also equalized pay in several non-core areas, effectively reducing the number of wage-differentiated regions to three, down from the earlier six.

The health insurance component probably added about \$2 per hour in costs, a considerable percentage increase for janitors earning \$6-\$7 per hour. Thus, a key complicating factor going into Round III of bargaining would be the recent bump up in labor costs just preceding those negotiations. Would the management side be willing to accept new contract improvements in Round III, having recently provided a significant benefit for many workers under the expiring Round II accord?

Background to Round III

As was the case in 1995, the state of the real estate market and the identity of the building owners that would indirectly pay for any janitorial contract improvements had changed by 2000. The downtown office market was suffering from the departure of major corporations from Los Angeles. That market was built on corporate headquarters of companies such as ARCO and Security Pacific Bank that now no longer existed thanks to mergers and acquisitions. On the other hand, areas of the Westside, such as Santa Monica, had become red hot centers of multimedia activity and dot.coms, as had other regional markets such as Burbank. The dot.com effect peaked coincidentally with the janitors' 2000 negotiations that took place before the tech bust. As a result, relatively high vacancy rates downtown co-existed with a scarcity of space in the new hot areas. On average for L.A. County rents had risen 50% since 1995. In an odd

doughnut phenomenon, rental costs for downtown were reportedly one third below average commercial rates for office space in the greater Los Angeles area. So by 2000, cheaper downtown space was attracting spillover tenants priced out of the hot areas. (Howard 2000a; 2000b; 2000c; 2000d) Nonetheless, the SEIU leadership had to be concerned with the move of office location away from the downtown core area and, notably, into nonunion Orange County.

New Ownership, New Attitudes for Round III

The buildings themselves were no longer in the hands of reluctant lenders – as was the case in 1995 - but had been taken over by Real Estate Investment Trusts (REITs), partnerships, and similar institutions. The Japanese investors that found themselves burned by the “irrational exuberance” of the 1980s were largely gone from the market. It was not clear how the new owners would react to the kind of public pressure the janitors could bring.

On the one hand, concern among policy makers and the general public about the working poor had increased. Moreover, with falling unemployment, anti-immigrant sentiment was receding. Attempts, for example, by immigration restriction activists to resurrect Prop 187 from its legal tomb had failed. Politicians had become more sensitive to Latino concerns, as the Latino electorate increased. But in other parts of the state, notably in the Sacramento area, unionization of janitors was being strongly resisted by cleaning service firms. For example, Sacramento employers at one point created a “company union” to ward off the SEIU until the tactic was declared to be illegal and the SEIU was recognized.²¹ And janitorial employers in San Francisco in 1999 were able to negotiate an end to an SEIU-operated hiring hall in exchange for seniority protections and a pay increase.²²

The Cleaning Contractors in Round III

The two main cleaning contractors in 2000 were the same as those in the prior two Los Angeles negotiations. ABM Janitorial Services – American Building Maintenance, based in San Francisco, operates throughout the U.S. and in Canada. It is part of a still-larger enterprise providing other building services such as security, parking, and elevator repair. The parent company has 57,000 employees, over 40% unionized. ABM had been a relatively stable corporation throughout the 1990s.

In contrast, One Source, the former ISS (International Service Systems), has had a much more complicated history. At the time of the first negotiation in the early 1990s, it was an autonomous subsidiary of a Danish multinational parent that focused much of its attention on the European market. Autonomy, however, apparently led to financial “irregularities” by managers of the subsidiary during the period 1989-95, leading to charges against income and the departure of its chief financial officer. The Danish parent divested its problem child in 1997, selling it to a Montreal-based firm known as Aaxis on condition that the ISS name of the subsidiary be changed. Aaxis was then sold to a Belize-based multinational, BHI, in 1998. BHI merged with another Belize-based firm, Carlisle Holdings, in 1999 to form Carlisle Holdings Limited. The three firms - Aaxis, BHI, and Carlisle - are all linked to Michael Ashcroft, a high-ranking official in the British Conservative Party who was Belize’s ambassador to the UN at one time.²³

The One Source enterprise operates in the U.S. and has 42,000 employees; Carlisle also operates in Britain, Ireland, and Belize. But while the operation of One Source is more opaque

than ABM's because of the former's external ownership, both ABM and One Source were vulnerable to pressures by the SEIU in cities other than Los Angeles. Both ABM and Carlisle suffered drops in stock price at around the time of the strike in Los Angeles and other cities. However, ABM's price recovered while Carlisle's did not.

Union Restructuring and Round III

ISS/One Source was not the only organization to be restructured prior to Round III. As noted earlier, the union had been reorganized. Los Angeles janitors were combined with janitors in other parts of California in an expanded Local #1877. Given this new structure, the union was better organized and better able to coordinate its various parts. There was also increased coordination with other janitors locals throughout the SEIU.

One of the areas of tension under the old set up was the balance between resources devoted to new organizing and those devoted to day-to-day contract administration. This balance is difficult to maintain since without organizing to sustain the membership base, there may not be a contract to administer (as the 1980s had demonstrated). Nevertheless, the expiring contract included various provisions designed to appeal to immigrant workers, such as time off to deal with immigration matters. An expedited system of grievance arbitration included in the expiring contract also appeared to be working successfully.

Round III Political Conditions in Los Angeles

The office of mayor in Los Angeles is officially non-partisan, a reflection of California's "progressive" reforms of the early 20th century. However, at the time of the first contract negotiations, the office was held by Tom Bradley, a Democrat with ties to organized labor. Bradley was succeeded in 1993 by Richard Riordan, a Republican without such ties. The new mayor's response to the janitors' tactics was untested in the 1995 negotiations. Those negotiations had gone surprisingly smoothly and there was little call for mayoral involvement. However, by 2000, Riordan had developed amicable relations with the Executive Secretary-Treasurer of the Los Angeles County Federation of Labor Miguel Contreras.²⁴ Riordan also had close ties with the Catholic Church in Los Angeles and with Cardinal Roger Mahony in particular. Mahony had developed ties to organized labor in the L.A. area despite a dispute in the 1980s about unionization of Catholic cemetery workers. (Newton and Stammer 2000) And the Church was, of course, sensitive to the growing representation of Latinos in its parishes. In a precursor of the 2000 janitorial negotiations, Cardinal Mahony had played a role in settling a longstanding, bitter dispute between the University of Southern California and its food service and janitorial workers in 1999.²⁵

Mayor Riordan also had ties to influential real estate developer Robert F. Maguire III.²⁶ Maguire has been involved in major downtown L.A. projects. These include the 73-story Library Tower (which was zapped by creatures from outer space in the film *Independence Day*), the Wells Fargo Center, and the Gas Company Tower. He has also been a player in Westside projects such as Playa Vista – a development with considerable L.A. city involvement - and MGM Plaza in Santa Monica. Maguire, Cardinal Mahony, and Mayor Riordan were all to play significant roles in the 2000 janitors' negotiation.

Legal Strategy in Round III

As noted above, the illegality of using economic pressure on any “neutral” employer - other than the janitors’ own employer (the building services contractor) – is a very serious obstacle to effective labor protest. In practice, however, the union designed the 2000 JfJ campaign in Los Angeles to ensure a maximum of publicity and political pressure while minimizing potential liability under the secondary boycott laws. Indeed, the success of the JfJ campaign in Los Angeles is due, at least in part, to the union’s care in planning its various protests.

Several features of this planning are important from the legal standpoint. First, in the weeks leading up to the 2000 strike, the cleaning contractors had allegedly committed a variety of unfair labor practices, including threatening employees and refusing to bargain in good faith with the union. The union filed at least 30 unfair labor practice charges about the employer’s pre-strike conduct with the NLRB. These pending charges could help bolster the union’s position that the strike was precipitated or prolonged by the employers’ unfair labor practices. If the NLRB were to agree that the strike was to protest the unfair labor practices, the employers could not permanently replace the striking janitors. Thus, the filing of charges provided some assurance that the contractors could be forced to reinstate the striking janitors at the end of the strike.

Second, the union picketed at buildings only at night when replacement workers were in the building doing the cleaning that the union janitors were striking. This was necessary to avoid the charge that the janitors were pressuring other tenants, or the building owner, rather than their cleaning service employers who had hired replacement workers. Nightly picketing and protest marches through the streets of downtown became a regular feature of the strike.

Use of Creative Street Theater in Round III

Limitations imposed by secondary boycott law partially explain the creativity and unconventional nature of the JfJ protest tactics. The need to picket only at night and only at targeted buildings may have simplified the task of staffing and coordinating the picketing. Rather than rely on picketing at the workplace during the ordinary business hours (which might be an unlawful secondary boycott), the union chose to make its daytime protests in the form of marches across town and through rallies in public spaces. These mass protests have the advantages of being protected speech under the U.S. Constitution, unlike labor picketing, that does not enjoy unqualified First Amendment protection (*International Brotherhood of Teamsters, Local 695 v. Vogt*, 354 U.S. 284 (1957)). More important, the marches and rallies are more conspicuous than traditional picketing and more likely to elicit media attention.

The choice to assemble rallies and marches rather than only traditional picket lines gave the union the opportunity to make its protest about the plight of the invisible, immigrant workforce, rather than just about the disputed provisions of the collective bargaining agreement. Marches and demonstrations could involve a wide range of civil rights and community organizations and religious and political leaders. The legal restrictions on a traditional picket line were not the only, or even the main, reason why the union chose a different model of protest. Media, coalition-building, and public relations advantages of the march and rally approach to labor protest are no doubt far more significant considerations. Nonetheless, one lesson of much

recent labor scholarship has been that labor law restrictions and the excessive involvement of lawyers and judges can have an enervating effect on worker activism. The SEIU clearly seems to agree. As their lawyers said in interviews with the authors, the lawyers' role in the whole strike was relatively small; use of their advice on legal matters is only one part of the union's overall strategy. But that strategy does have to take account of the legal environment.

The Round III Management Perspective

The building service contractors considered the janitors' decision not to rely just on traditional strikes and picketing an important and successful strategic choice. Management disputed the union's claims about the success of the strike in keeping janitors out of the building. It was noted that, especially by the end of the strike, many unionized janitors were crossing the picket lines to go to work. But whether the strike remained strong and whether the picketing was effective was not determinative. Much of the union's negotiating leverage came from the strong public sentiment supporting the janitors' efforts rather than from preventing buildings from being cleaned.

Building owners and their lawyers chose not to insulate themselves from involvement in, or responsibility for, the janitors' working conditions. They participated directly in the negotiations and evidently wanted to have a direct relationship with the union (since they would ultimately pay for the labor cost outcome). The owners' involvement had the legal consequence of making it difficult for them to assert that pressure against them was a secondary boycott. Given their involvement, they would likely be found to be joint employers with the building contractors. A joint employer is not considered a neutral or secondary entity and therefore is a permissible target for labor protest (*Douds v. Metropolitan Federation of Architects*, 75 F. Supp. 672 (S.D.N.Y. 1948)).

Support from Other Unions During Round III

Union leaders we interviewed attributed some of the success of the strike to the support they gained from other unions, including those of elevator repair workers, painters, carpenters, garbage collectors, and UPS drivers. The building owners or cleaning contractors made efforts in the first two days of the strike to establish separate gates for replacement janitors. These gates were designed to preclude picketing at other entrances and thus make it difficult for other unions to observe the janitors' picket line.

In a workplace shared by many employers, one employer can legally insulate itself from picketing directed at other employers by establishing a separate gate (entrance) for the exclusive use of the striking employees. If such a separate gate is established, any picketing at gates reserved for the "neutral" employers becomes an illegal secondary boycott (*Moore Dry Dock*, 92 NLRB 547 (1950)). However, the separate gates strategy failed in this case. The replacement janitors and the other employees persisted in using each others' gates, thus preventing insulation. Once a gate is used by employees of both the neutral and the primary employer, the union can picket at it. The janitors were therefore able to picket at all building entrances without fear of secondary boycott liability. In addition, the owners or contractors evidently did not do enough to demarcate the separate gates they tried to establish; union members reported that the Teamsters drivers tended to see the picket line as being around the entire building rather than at one gate. Teamster drivers therefore refused to make any deliveries or pick-ups at picketed buildings.

Impact of a New Governor

The year 1996 was pivotal for California politics, and, as it happened, unions played a major role in statewide elections. In the June primary, Proposition 226, the “paycheck protection” initiative, was placed on the ballot by conservatives. Prop 226 would have greatly undermined labor’s influence in the political process by imposing severe restrictions on the use of union dues for political campaign purposes. Union members would have had to give explicit permission for their dues monies to be used for non-bargaining activities.²⁷

Although the initiative was leading 2 to 1 in public opinion polls three months before the election, the California labor movement mobilized a huge grassroots effort to oppose Proposition 226. Union activists throughout the state set up precinct operations, phone banks, voter education, and get-out-the vote drives. In a few weeks’ time public support for Prop 226 dramatically plunged, and the initiative ultimately went down in defeat by an 8-point margin.

Defeat of Prop 226 encouraged the California labor movement to flex political muscle in other campaigns. The same grassroots operations that had been mobilized for the June primaries were reactivated in the November general election. In particular, the Los Angeles County Federation of Labor developed a program to target newly naturalized immigrant voters who had been registering in record numbers. These new voters were favorable to labor’s call to unseat politicians who had taken anti-immigration positions in prior elections.

In November 1996, the Democrats captured the governor’s seat and both houses of the state legislature. For the first time in 16 years, a Democratic governor was elected. Pro-union leadership emerged in both the State Senate and Assembly. Incoming Governor Gray Davis enjoyed strong support from the California labor unions, although he ran on a moderate Democratic platform and was anxious not to be perceived as a union captive.

During Davis’ first year as governor, there were a number of labor-supported initiatives that were sent to his desk. In keeping with his moderate political philosophy, he was reluctant to support an overtly pro-labor agenda. The Governor thus exercised his veto on numerous occasions, particularly when the labor-sponsored legislation lacked bi-partisan support. However, after having vetoed similar legislation the year before, in October 2000, Governor Davis signed A.B. 1889, sponsored by Assemblyman Gil Cedillo. A.B. 1889 barred public agencies or private sector recipients of state funds from using public monies to interfere with unionization efforts by their employees. The California Labor Federation was a major supporter of the bill.

On the janitor’s front, in June 1999 Davis proposed to hire 87 workers to clean state government buildings in place of private janitorial services, a symbolic action that reversed the policy of former Governor Pete Wilson who had privatized many government functions. Davis’ spokesperson characterized the decision as one of equity, entitling workers to fair wages and benefits. (Morain 1999) But when SEIU supported legislation to protect the jobs of janitorial workers in situations where building owners change service contractors, Gov. Davis exercised his veto. Senate Bill #1877, numbered after the janitors’ local union, would have required the successor contractors to employ the janitors already working at a site for at least 90 days. After

90 days, they would be offered continued employment if their work performance was satisfactory. In issuing his veto, Davis said that the bill would set a “troubling precedent in regulating private-sector employment relationships.”²⁸ Nonetheless, another bill dealing with labor injunctions was signed that assisted the janitors during the 2000 strike.

Large-Scale Protests, Picketing, and the Problem of Labor Injunctions

By the Round III negotiations, the union and its lawyers were evidently so accustomed to the restrictions imposed on their tactics by the secondary boycott law that they did not even describe potential secondary boycott charges as a major concern. What they seemed to think far more significant was a recent change in California law – signed by the governor - limiting the ability of employers to obtain injunctions against labor picketing. To understand why this law mattered as much as it did, it is necessary to explore some of the legal background to regulating labor protest and the related risks of union liability.

The tort and criminal law of California (and most states), prohibits workers from using violence or intimidation in conducting protests. Among the prohibited conduct is actual or threatened violence or property damage, mass protests, trespass, and blocking ingress to, or egress from, employer property. Such conduct is prohibited under state law even if it takes place as part of an otherwise permissible strike or picket line targeting a primary employer. The federal labor law protections for peaceful picketing and protest do not immunize labor protesters from criminal or tort liability for misconduct.²⁹

One of the hallmarks of JfJ campaigns is large, ebullient, and noisy street protests. Building owners and managers often respond to the arrival of large numbers of red T-shirted janitors and their supporters by seeking a court order limiting the size, location and noise level of the demonstration. If a court issues the injunction, any violation of the order is punishable by contempt sanctions, which can be speedy, harsh, and devastating to the individual protesters as well as to the union’s treasury. Thus, availability of injunctions could be a significant element in the success or failure of a JfJ campaign.

Anti-Injunction Legislation: Old and New

Until the 1930s, federal courts routinely enjoined strikes and related labor protests (Frankfurter & Greene 1930). In 1932, however, Congress enacted the Norris-La Guardia Act, which stripped federal courts of jurisdiction to issue injunctions in most labor disputes.³⁰ The Norris-La Guardia Act did not, however, affect the power of state courts to issue labor injunctions. Many states, therefore, enacted their own “little Norris-La Guardia” statutes divesting their courts of jurisdiction. Although California enacted some protection for labor picketing, the protection it adopted was relatively weak. Not until 1999, under Governor Davis, did California adopt a law that is virtually identical to the federal Norris-La Guardia Act (Labor Code § 1138).

The 1999 California statute imposes several requirements to restrict the ability of courts to enjoin strike activity. No state court may issue an injunction unless there is a showing that the police or other officers charged with the duty to protect the complainant's property are unable or unwilling to do so (§ 1138.1(a)(5)). No state court may issue an injunction except after hearing

testimony of witnesses in open court, with an opportunity for cross-examination (§ 1138.1(a)). A person or business seeking an injunction must show that it has not committed any violations of labor or other laws and has made "every reasonable effort" to settle the labor dispute "either by negotiation or with the aid of any available governmental machinery of mediation or voluntary arbitration" (§ 1138.2). A person or business seeking an injunction must post a bond to compensate those enjoined for damages caused by an erroneously-issued injunction (§ 1138.1(b)). Finally, the court must determine that a person or business seeking the injunction will suffer immediate and irreparable injury to its property from ongoing or threatened unlawful actions. Moreover, the harm to the complainant if the unlawful actions are not enjoined must be greater than the harm to the persons enjoined (§ 1138.1(a)(2)-(3)).

Impact of the New State Anti-Injunction Statute

SEIU Local 1877 and its lawyers believed that the new anti-injunction statute made a difference in how the courts responded to the strike and the related nightly protests. Building owners and their allies tried on five separate occasions to have a state court enjoin the protests; each time the court rejected their request, based on the new law. Thus, the new state legal requirements evidently made a difference in how state courts perceived the strike. Under prior law, courts would have entertained and often granted requests for injunctions based only on sworn affidavits describing allegedly illegal protests and asserting threatened harm to business or property. Union lawyers had felt that cross-examination of the employer witnesses was necessary to reveal that the harm allegedly caused by the protest was often significantly exaggerated and that the protests did not pose any real threat to property. But under the old law, they were not necessarily granted the right to present such evidence.

The requirement that courts not issue injunctions without finding that the police were unable or unwilling to control any threatened injury to property also benefited the union. Union lawyers were able to show the court that Los Angeles police officers had been briefed and were present (and prepared) to deal with any illegal protests that might occur. As one union lawyer said to us, the union and the police essentially agreed that the police got the streets and "we got the sidewalks." The final feature of the new state law that made life easier for the union side was a new restriction on the ability to hold a union responsible for the unlawful conduct of individual members. An often-successful management tactic is for an employer to obtain an injunction, wait for some picketers to violate the terms of the injunction, and then seek to hold the union officers in contempt of court for the violations. Penalties for contempt of court can include large fines that are payable out of the union treasury if union officials were involved in, or approved of, the enjoined illegal activities.

In many strikes emotions on the picket line run high. It is difficult for a union to stir up enough enthusiasm among its members to induce them to picket but not stir them up so much that someone is tempted to damage employer property or to violate an injunction. Because courts are apt to have little patience for anyone who violates terms of orders they issue, they sometimes punish contempt of the injunction with very high fines. Contempt sanctions in the tens of millions of dollars have been awarded against unions in the past (*United Mine Workers v. Bagwell*, 512 U.S. 821 (1994)). The threat of huge sanctions can be a significant disincentive to carry out an aggressive, in-your-face protest.

The new California law provides that injunctions may not be issued except “against the person or persons, association, or organization making the threat or committing the unlawful act or actually authorized those acts” (§ 1138.1(a)(1)). Furthermore, the statute provides that no union officer or member, nor any union, can be held liable for unlawful acts of individual union officers or members “except upon clear proof of actual participation in, or actual authorization of those acts” (§ 1138). Taken together, these new provisions prevent a union that had not authorized illegal acts, or members who were not involved in illegal acts, from being enjoined (and thus from being held in contempt of court). They also provide that persons who are not named in the injunction cannot be held liable for the violations of others without clear proof that the union officially authorized the conduct. These new requirements provided some assurance to the union that the illegal protest of individual picketers would not become the basis for the entire union to be enjoined. As a result, violations of an injunction by individual union members would not become the basis for a huge fine against the union.

Round III: The Union’s Strategy

SEIU union leaders and negotiators profess a strong preference for having the janitorial contracts across the country expire at approximately the same time, and are clearly pushing in the direction of a “*de facto* national contract.” There would be closely coordinated bargaining, if not an explicit “national contract,” on certain issues. The goal seemed to be to extend the contract pattern from a set of regional labor/product markets to the entire country. As Stephen Lerner, the former director of building services organizing for SEIU and an architect of the JfJ strategy, said about the initial basic plan, JfJ sought to compel employers “to fight on our terms, not theirs” (Lerner 1991: 8). Thus, it is worth exploring the nature of the current national pattern, as well as the conditions under which this coordinated strategy might make sense for the union. Such a strategy effectively joins the California negotiations in particular cities to those in other cities within the state and elsewhere.

A New Form of Pattern Bargaining Emerges

Many of the JfJ contracts around the country were settled in the months after the April 2000 Los Angeles settlement. Some examples include contracts in New York, Cleveland, Portland, and San Diego in May; Silicon Valley in June; Seattle in July; Milwaukee in August; and Hartford and Philadelphia in October. Yet it is also worth noting that a number of janitorial contracts were settled in the months *before* the Los Angeles settlement. These contracts include San Francisco in August 1999, Minneapolis in January 2000, and downtown Chicago just before the Los Angeles settlement in April 2000.³¹ Despite these prior agreements, union and management sources, as well as some press sources, labeled the Los Angeles settlement as the “pattern setter” for this round of agreements. And Lerner was explicit about the delicate balance the union was attempting to achieve: to “make strides in establishing minimum standards” for more full-time jobs, health care coverage, a living wage, and the employer’s respect for the employees’ right to organize, but at the same time acknowledging that “we never claimed the standards should be the same” for all markets. (Walpole-Hofmeister 2000)

The Contrast with Traditional Pattern Bargaining

Pattern bargaining is a well-known phenomenon in the labor relations literature. Kochan and Katz (1988: 136-137) have defined pattern bargaining as “an informal means for spreading the terms and conditions of employment negotiated in one formal bargaining structure to another.

It is an informal substitute for centralized bargaining aimed at taking wages out of competition.” This pattern approach seems to work best where a union can organize a set of companies that share product and labor markets, as in the domestic automobile industry.³² And traditional pattern bargaining was clearly applied by SEIU *within* individual regions. Thus, when JfJ first came to Los Angeles, the strategy was to organize all the major cleaning companies and have them sign identical contracts. The strategy would take labor costs out of competition between area cleaning service contractors.

Yet the product and labor markets of (non-traded) janitorial services are geographically distinct. Raising wages in Chicago does not “take wages out of competition” for building services contractors in Los Angeles. So the SEIU clearly envisions a different kind of pattern setting. It is necessary to look beyond “taking wages out of competition” for explanations of the operation and potential effectiveness of the cross-region coordination tactic.

Reputation Effects in Bargaining

Even though contractors in one city are not in direct competition with contractors in another city, a high-profile strike and settlement has the effect of establishing reputational effects throughout the state and country. It signals to the contractors and building owners elsewhere that union strike threats are credible. It also creates a point of comparison, or “benchmark” for workers as well as contractors and building owners. Arthur Ross long ago argued for the importance of what he termed “orbits of coercive comparison” in the formation of workers’ wage demands. Ross argued that workers make comparisons to the wages obtained by other workers in similar situations; they then set their expectations accordingly. (Ross 1948) Thus, Spanish-language television seems to have played an important role in spreading information concerning the Los Angeles strike and eventual settlement to janitorial workers across the country.

Some of the effects of the alternative pattern approach are connected to the distinctive structure of the industry described above. Given the complexities of the relationships between the building owners and the managers, a pattern-setting agreement might alter the negotiations between these two parties over the terms of the cleaning contracts. The vice president for labor relations at the major contractor One Source, was quoted as saying that the contractors’ strategy was to use the Los Angeles settlement as a “benchmark” to take to building owners who were putting their cleaning service contracts out to bid in other cities. (Walpole-Hofmeister 2000) Thus, the Los Angeles strike and settlement may have given building contractors a compelling argument to take to the owners in other cities as to why the owners should accept the costlier cleaning contracts that would go along with higher janitorial wages.

It is important to recall that several of the larger building maintenance companies (including One Source and ABM) have operations in cities across the country. Thus, for example, One Source workers in one city might naturally compare their wages to the wages obtained by One Source workers in another city. ABM might know from direct experience the willingness of the union to launch a strike and the efficacy of those efforts in other cities. These national contractors may also be induced to settle quickly in one city in order to avoid sympathy strikes and work slowdowns in their operations elsewhere. This outcome could occur if the union’s efforts are sufficiently well-coordinated across cities and if the contract expiration dates are sufficiently close together. Union officials argued that simultaneous contract expiration

provided them with the opportunity to achieve the same level of coordination at the national level as routinely exists within the cleaning companies.

The Split Between Large vs. Small Contractors

There are significant differences between the operations of large contractors and the smaller contractors; these differences can lead to disagreements over management's bargaining approach. Smaller companies are less susceptible to threatened actions in other cities. And - as they tend to clean smaller buildings - they are also more likely to fear losing their contracts to non-union contractors. Smaller contractors are less likely to be concerned about pattern-setting implications of a settlement for subsequent settlements in other cities. These differences contributed to a split at the bargaining table between larger and smaller contractors in Los Angeles, a split that the union was sometimes able to use to its advantage.

Remaining Questions on Union Strategy

The unions' hope to achieve a "*de facto* national contract" leaves some questions unanswered. There is seemingly nothing to be gained by "taking wages out of competition" across geographical regions, as in tradable goods industries; Chicago janitors are not in competition with Los Angeles janitors, nor are their local employing establishments. So it is not immediately clear why simultaneous contract expiration and the drive for minimum national standards is a strategy strongly favored by the union. The official answer appears to lie in the union's desire to match the internal coordination and national-level presence of the large contractors. But simultaneous contract expirations could give an advantage to the contractors in some future negotiations, i.e., the ability to lock-out unionized workers across geographically dispersed operations. More rounds of bargaining will have to occur before a definitive assessment of the union's alternative pattern-bargaining approach can be made. Both sides are still learning. The union may find ways to coordinate more effectively; management may find ways to react more effectively than it did in 2000 to union coordination. In any event, future negotiations in Los Angeles and California are likely to become more and more part of a national process.

Round III: The Strike of 2000

Local 1877 began to prepare for a strike months before the 2000 contract expiration. Shop stewards and other rank and file leaders devoted many hours of work and discussion to "internal organizing" among the union's members. Their goal was to prepare the membership for mass protests for which JfJ had become known a decade before during the organizing that led to the 1990 victory in Century City. Since 1990, there had been considerable turnover of union members. Many workers had no direct memory of the 1990 events. Such efforts may also have been intended to show that the union could consolidate its hold on the industry with as much energy as it had a decade earlier.

In the pre-strike training sessions, stewards and other union activists were briefed about the economics of the janitorial industry and the commercial real estate market in Los Angeles. They also engaged in detailed discussion of union strategies. The goal was to build workers' confidence and to develop an organizational structure that was primed for a strike, if an impasse developed in the negotiations.

The Strike Commences

A key feature of earlier JfJ campaigns had been disruption: mass street protests, rallies in public places, and aggressive efforts to garner media attention, together with strategic pressures on major players in the janitorial industry. The three-week strike that began on Monday, April 3, 2000 followed this scenario. A week before the strike commenced, the union staged a boisterous pre-strike rally. And the strike itself started with a public membership vote rejecting management's most recent settlement offer. The vote was combined with mass picketing of downtown L.A. buildings.

Each day of the week brought another geographical focus, a part of what the union termed a "rolling strike." On Tuesday, April 4, the picketing spread to Los Angeles' affluent Westside; by week's end, janitors walked off the job in major office buildings throughout the metropolitan area. On Wednesday, April 5, the strikers paraded through Beverly Hills' shopping area to dramatize the income inequality issue posed by working poor janitors. On Thursday, April 6, Jesse Jackson led a march of more than 2000 janitors through Century City, the site of the union's breakthrough a decade earlier. Then on Friday, April 7, strikers wearing photogenic red JfJ T-shirts marched ten miles in an all-day event that drew support from many citizens.

Union Relations With the Los Angeles Police

Strike leaders went to great lengths to ensure that public protests were peaceful and orderly. Union officials obtained permits required by law for each march and rally. They worked with the L.A. Police Department's labor detail to minimize potential confrontation. There was only one occasion, early in the strike, when a conflict loomed. One night in L.A.'s otherwise empty downtown, a security guard panicked at the sight of a large group of strikers and called 911. The LAPD tactical squad responded to the call and - after a tense standoff - Local 1877 president Mike Garcia persuaded the police that the union could control the protesters.

During the three-week walkout there were numerous arrests (including some of local politicians) in response to civil disobedience undertaken in support of the strikers. A few incidents of police beatings were reported. However, strike organizers managed to avert major conflicts. The outcome was in strong contrast to the uncontrolled police violence against janitors that had taken place in 1990 at Century City. Organized labor's political clout in the city that had developed over the intervening decade played a role. In addition, the strike occurred just months before the Democratic National Convention in Los Angeles and the city was anxious to show it could manage public demonstrations in an orderly fashion.³³

Union Legal Strategy

The union managed to offset legal maneuvers by building owners during the course of the strike. Management hired workers in some buildings to replace strikers. But this employer tactic - which can be devastating for striking unions in many instances - was not a disaster from the union perspective in this case. In fact, it was actually helpful to the SEIU in legal terms. If no one had been working in a building targeted by picketers, the union was more vulnerable to charges of engaging in illegal secondary boycotts. There was only one secondary boycott charge filed with the NLRB during the three-week strike (and which resulted in an NLRB complaint). Building owners did try to enjoin the mass protests on other grounds, however. On five separate

occasions they went to state court to seek an injunction on picketing, arguing that blocking ingress or egress to private property was a violation of state tort law. Each time the judge refused to enjoin the strikers. In each case, the court found that the requirements of the state's newly-enacted "little Norris-La Guardia Act" for an injunction had not been met.

External Financial Support for the Union Side

Well before the walkout began, the SEIU International raised \$1 million from its other locals around the country to support the walkout. In addition, Local 1877 had its own strike fund of \$500,000. (Gilroy et al 2000) Along with the mobilization of its membership for picketing and other high-profile strike activities, the local undertook extensive efforts to develop an effective public relations strategy. Local 1877 conducted polls and focus groups to this end. (Meyerson 2000: 28)

Public opinion responded to the strike far more positively than in the organizers' most optimistic projections, and not only because of the pre-strike preparations. In a city that was enjoying unprecedented prosperity at the turn of the 21st century, yet where inequality between the rich and poor was pronounced, the striking janitors were symbols of the plight of the working poor. They were immigrant workers laboring nightly at low wages to clean glitzy offices occupied by wealthy executives, lawyers, and other professionals during the day. The janitors' demand for a raise of one dollar an hour seemed eminently reasonable in this context and the contractors' offer of 50 cents an hour seemed heartless. Public sympathy was overwhelmingly pro-striking janitor.

Drivers regularly honked their horns in support of picketers as they went past. Those on foot sometimes spontaneously thrust dollar bills into the hands of the strikers. The janitors' signature red T-shirts became local fashion icons; passersby bought them off the strikers' backs. (There were even knockoff shirts appearing on the spot market.) In one of the more unusual events of the strike, during the second week of the walkout an anonymous donor delivered \$1 million to Local 1877 to help defray the strike expenses.³⁴ A contribution of that magnitude was undoubtedly unprecedented in labor history.

Media coverage of the strike was extensive and generally sympathetic. Reports in the *Los Angeles Times* and elsewhere highlighted the difficult living conditions endured by the city's low-wage immigrants. "Even L.A.'s TV newscasts – the most substance-free in the land – were compelled to cover the janitors' daily marches and mention the wage rates at which they worked," one commentator noted. (Meyerson 2000: 28)

Union, Political, and Religious Support for the Janitors

Pre-strike planning paid off in the form of support from a wide array of organized groups. Teamsters members refused to make deliveries or collect trash from struck buildings. The L.A. Building Trades Council also voted to honor the janitors' picket lines. Operating Engineers – workers who do elevator repair and other skilled building maintenance – also supported the strike. The Los Angeles County Federation of Labor organized a food distribution program for strikers and helped to coordinate other support activities.

Even before the walkout began, the Los Angeles City Council voted unanimously to support the janitors' demands. The L.A. County Board of Supervisors voted to back the janitors on the second day of the strike. The California State Assembly passed a resolution in support of the janitors by a huge margin. In the third week of the walkout, Vice President Al Gore spoke at a union demonstration, as did Senators Edward Kennedy and Diane Feinstein.

Local politicians were especially visible at union rallies and demonstrations – and not just Democrats. Republican Mayor Richard Riordan intervened in various ways on behalf of the janitors.³⁵ Riordan was influenced by a tradition of Catholic teachings on social justice as well as the growth of the Latino electorate.³⁶ Local 1877, along with the Los Angeles County Federation of Labor, had already emerged as a vehicle of Latino political mobilization. On the occasion of this crucial strike, as political commentator Harold Meyerson (2000: 29) argued, “To have been missing in action, or deemed insufficiently pro-janitor, would have amounted to political suicide.”

Support from the Catholic Church played a very important role throughout the conflict. Cardinal Roger M. Mahony – who had long had friendly relations with AFL-CIO president and former SEIU head John Sweeney – voiced sympathy for the strikers' cause. The Cardinal celebrated a mass in honor of the janitors and publicly offered to mediate the dispute. Behind the scenes, both he and Mayor Riordan were in contact with Miguel Contreras, head of the L.A. County Federation of Labor. They helped start serious settlement negotiations by making direct appeals to building owners, managers, and other key players in the industry.³⁷

Pressures Felt on Both Sides

As the walkout moved into its third week, workers and their families were beginning to feel the loss of wages a strike entails. Janitors lived paycheck-to-paycheck on wages of \$7.20 an hour (and that much only in core area buildings). Few janitors had savings upon which to draw. Even with food provision and strike funds helping to provide alternative support, the economic pressures became intense. Some workers did eventually cross picket lines. However, unlike conventional strikes, the key union goal was not the halting of production. Rather the objective was carrying out public demonstrations and obtaining external support, combined with whatever disruption of service could be attained.

In any event, the union continued to demonstrate its determination. When the Jewish holiday of Passover took place during the strike's third week, the janitors held a Seder held in front of the headquarters of TrizecHahn, one of the city's largest commercial property owners. A local rabbi compared the strike to the Jews' exodus from Egypt. (Haynes 2000) That same week, a candlelight vigil in downtown's Pershing Square drew thousands of members and supporters together and bolstered flagging spirits.

The SEIU organized its janitorial division on a nationwide basis, and in the final week of the strike it increased the pressure on the contractors by flexing its muscles across the nation. Local 1877 members went to Seattle, Denver, San Francisco and San Jose to picket buildings cleaned by the major contractors. Their picket lines were honored by SEIU janitors in the other cities. “We just did a couple of buildings in each city for one night, but we planned to escalate considerably if the strike had to go into its fourth week,” SEIU Building Service Director

Stephen Lerner explained to a reporter. (Meyerson 2000: 28) As it turned out, there was no fourth week.

The End of Round III: A Deal is Struck

A few key building owners, led by Robert Maguire, finally brokered a strike settlement. Maguire, as noted earlier, is one of the area's largest real estate magnates. He threatened to make his own arrangement with the union if the contractors did not agree to settle the dispute. (Cleeland 2000) Cleaning contractors themselves were divided between the two major firms – One Source and ABM - that employed the bulk of the janitors downtown and at Century City, and an assortment of smaller firms. The latter group had distinct economic interests, and were not vulnerable to the geographic pressures One Source and ABM faced. They did not have SEIU members cleaning their buildings in other cities since they did not service a national market. As a result, the smaller firms still had hopes of defeating the strike well into the third week of the walkout. They took a more intransigent posture than the major contractors that by all accounts prolonged the conflict.³⁸ But eventually the big industry players prevailed and the strike was settled at the end of its third week, a widely-celebrated victory for the union. As they had at Century City a decade before, the janitors in 2000 once again emerged as an inspiration to the labor movement.

Key Features of the Round III Agreement

The Los Angeles settlement of 2000 has a three-year duration, unlike the prior 5-year agreement.³⁹ (Three years is a much more typical duration than five for a labor contract). Due to the strike, wage increases were delayed until May 1, 2000, a month after the new agreement's retroactive start date. As Table 2 and Chart 3 illustrate, the *de facto* consolidation of geographic zones for differential pay under the prior contract was formally recognized with new area designations.⁴⁰ Employment in the core Area 1 remains the highest paid with pension and health insurance benefits. The surrounding Area 2 continues the health insurance that was backloaded into the prior settlement. Outlying Area 3 features smaller dollar and percentage increases than the other two and does not provide for health insurance coverage. However, the agreement includes a provision guaranteeing that employees are paid no less than 30 cents above the federal or state minimum wage. This provision – which nominally covers all areas - would most likely affect only Area 3. Unionized cleaning contractors who take over a previously nonunion location are allowed a graduated phase-in period before the application of full area wages and benefits comes into force. A one-cent per hour contribution to an industry-wide training fund is mandated. Contractors are protected from union concessions to other employers through a so-called “Most Favored Nations” clause.⁴¹

Although there apparently were some complaints by employers about the expedited grievance/arbitration system, it was retained in the 2000 agreement, along with a conventional arbitration system. The expedited system essentially calls for rapid hearings and bench decisions.⁴² A hiring hall or referral system – under which employers fill vacancies from workers referred by the system - is applied to temporary and permanent employees for the core area. Standard union shop and checkoff language is included along with a management rights clause.⁴³ Employers are required to notify the union about impending investigations by immigration authorities of which they are aware; they are prohibited from providing more

information to such authorities about employees than is legally required. Various protections are provided for employees who are absent from work due to immigration-related proceedings.

The Supermarket Spillover

The 2000 settlement had spillover effects outside the office cleaning sector to which it applied. During the 1990s, unionized supermarket chains in Los Angeles and surrounding counties contracted out their janitorial work to a nonunion, low-wage cleaning service. A press exposé of this practice appeared and complaints were filed with state and local authorities alleging labor law violations. The litigation and adverse publicity, combined with the general public sympathy for janitors that the strike of 2000 had evoked, led the supermarkets to agree to contracts with SEIU requiring a phase-in of union cleaning contractors (or the equivalent wages and benefits). About 2,100 janitors were covered by the new supermarket agreements. Some chains re-employed their janitors directly as part of the settlement rather than use an outside contractor. One chain spokesperson declared, “We pride ourselves on our reputation of being an employer that treats its employees with the utmost respect, and we didn’t want to see that reputation erode.” (Cleeland 2001)

The Orange County Accord

The victory of the janitors’ strike in Los Angeles also had a positive influence on other janitorial contract negotiations throughout the country. Some of the building service companies that were the target of the Los Angeles strike were also in negotiations with janitors in other cities statewide and nationally. Given the outcome in Los Angeles, contractors in other cities were reluctant to risk a Los Angeles-style confrontation. In short, the master agreement signed in Los Angeles helped to set the stage for negotiations elsewhere.

An additional benefit of the strike from the union viewpoint was that the janitors were able to build on the momentum of Los Angeles to strengthen organizing campaigns, most notably in Orange County, California. Several of the building service companies under union contract in Los Angeles also operated in Orange County, including ABM, One Source, and Diversified Maintenance Services. While Orange County government had suffered from a fiscal crisis in the early 1990’s, the private economy boomed thereafter and commercial real estate participated in the upswing. At the same time, a severe labor shortage developed in the County for low-wage labor, despite continuing immigration. (Earnest 2000)

During the Los Angeles strike, Orange County janitors were also mobilized by the union to attend rallies and demonstrations. SEIU staff as well as rank and file janitors from Los Angeles traveled to Orange County to spread the union’s message and to encourage their fellow workers behind the “Orange Curtain” to follow their lead. While the political landscape of Orange County has historically been more conservative and inhospitable to unions, these conditions were changing. As in Los Angeles, there has been a large influx of Latino immigrant workers into Orange County. Also as in Los Angeles, the income and wealth disparity between rich and poor has grown wider. On the electoral front, the victory of Orange County Congresswoman Loretta Sanchez, a labor-endorsed Democratic candidate, against conservative Republican Bob Dornan became national news.⁴⁴ In 1999, Linda Sanchez, the Congresswoman’s sister, became the first Latina head of a Central Labor Council.⁴⁵

The janitors' strike gave encouragement to the union in Orange County to follow up aggressively on its demand there for union recognition. But the speed at which recognition was obtained took union leaders by surprise. SEIU obtained a neutrality agreement from the major building owners and contractors that have buildings in Orange County.⁴⁶ As one union leader reported, "they don't want red T-shirts in front of their buildings" down there. Owners and managers agreed informally that the employer would recognize the union if it could obtain signed authorization cards from a majority of the employees.⁴⁷ In January 2001, 3,000 new janitors were brought under union contract, pursuant to this understanding and constituting a major breakthrough for the labor movement of Orange County.

Lessons and Questions from the Janitors Experience in Three Rounds

It is easy to tick off the reasons why the Justice for Janitors campaign in Los Angeles should not have succeeded. The campaign was targeted at an immigrant low-wage workforce, scattered in many locations, often speaking little English, and – in many instances – vulnerable to threats of deportation. Union campaign tactics were focused on the building owners and managers, not on the cleaning services, thus raising potential legal concerns. So a primary lesson is that despite these obstacles, the campaign nonetheless prevailed. Low-wage immigrants were organized and contracts were negotiated on their behalf through three rounds of bargaining. The legal barriers were surmounted.

JfJ tactics deviated from the standard organizing and negotiating model in that strikes that occurred were aimed less at preventing the service from being provided and more at influencing public opinion, which is sensitive to the plight of the working poor across a broad left/right spectrum. Public opinion, in turn, influenced community leaders and political figures, ultimately producing union recognition and then the successful contract outcomes. A synergy resulted from the fact that the same major cleaning services and building owners and managers could be found in many urban areas. This symmetry allowed success in one area to spread to others.

Since the L.A. JfJ campaign has sustained itself in three bargaining rounds through ups and downs of business cycles and through changes in the identity of building owners and managers, it seems clear that the test of "sustainability" has been passed. The initial success of the JfJ campaign after the events of Century City in the early 1990s was not dissipated, despite the internal union political problems that soon followed. Extension of union representation into Orange County was certainly not a development that anyone would have forecast in the early 1990s. The Orange County extension suggests that seemingly-invulnerable nonunion targets can be organized by building on foundations established earlier in unionized areas.

Various background conditions aided SEIU in the JfJ campaign. Janitorial services, like many other services, cannot be outsourced abroad nor even to other low-wage areas domestically. The cleaning of a building can only take place in that building. "Globalization" in the form of international competition over labor costs was not going to be a factor in the janitors' case, as it would have been in a tradable manufacturing industry such as apparel. Although there are national-origin differences among different Latino immigrants, the relative homogeneity of the janitorial workforce also helped the JfJ campaign. Ethnic solidarity played a role. And the disruption caused by the janitors strike did not lead to major public inconvenience or to

interruption of a vital service. If such an outcome had occurred, it might have turned public opinion against the strike.

Thus, a script for success based on the JfJ campaign would involve 1) city-wide organization and mass public (non-violent) demonstrations, 2) a group of low-wage workers capable of eliciting public sympathy, 3) a non-tradable service, 4) careful strategy to avoid legal complications, 5) a service on which there is not strong public dependence, 6) an industry structure in which the same major employers could be found in many areas, and 7) the leveraging of successes in one area to accomplish organizing or negotiating goals in other areas. But listing the key elements raises an interesting question. If these features are the key, why haven't there been more union successes in industries with economic features and workforces similar to that found in building services?

The closest parallel to the building services industry in Los Angeles is the hotel sector. Many hotel workers in food services and cleaning are Latino and most are paid low wages. As in the case of janitorial services, there are many small operators in the hotel industry, but also a few big chain operators of major hotels that are found in many cities. There were about 37,000 hotel employees in Los Angeles County in the late 1990s, which is more than are employed in building cleaning services. Even if just the major chains are included, there would certainly be thousands of low-wage Latino workers potentially available for demonstrations and campaigns similar to JfJ. And the secondary boycott problems potentially entailed in the JfJ campaign do not arise in the hotel industry; the hotel itself is the primary employer of the workforce.

Tourism and business travel is a major local industry in Los Angeles so that large-scale demonstrations of hotel workers would certainly attract media attention. The local leadership of the Hotel Employees and Restaurant Employees (HERE) in L.A. has been militant in many respects. But with all that, and despite some organizing successes, HERE was largely in a defensive mode in the 1990s, trying to fend off attempts at de-unionization of existing hotels as ownership changes. Major new hotels, notably some along the beach in Santa Monica, have not been organized, although union inroads are being made there.

Labor costs in hotels account for roughly half of revenues, a factor that may account for stronger employer opposition to unionization than in the janitors' case.⁴⁸ Labor costs are a significant element in running a cleaning service, but they are a relatively small portion of the costs of running a building once land, construction, utilities, and other expenses (besides cleaning personnel) are considered. And the janitors' campaign focused on the building owners and managers, not the cleaning services. There may also be more ethnic division within hotels that complicates organizing. Latino immigrants are typically found in food service and room cleaning functions. But the desk clerks, waiters, and other more visible staff are often not Latino.

Still, the fact is that while these differences between hotels and building services may be major influences, we do not have an answer to the question of why hotel unionization in Los Angeles has not followed the path of the janitors. And perhaps HERE will eventually be able to follow the JfJ path; a card-check agreement involving major hotels and restaurants and HERE was reached in San Francisco at a new downtown development in the fall of 2000.⁴⁹ If the hotel

industry were to be unionized along JfJ lines, the JfJ model would be shown to be applicable to industries other than cleaning service.

There has been success in union organizing in certain other service areas with a heavy immigrant worker presence in Los Angeles, often with some political involvement. For example, a large unit of home health care aides in Los Angeles County was organized through the political channel. The health care aides, while paid through government funds, had been hired directly by the individual patients. By restructuring the employment relation through creation of an umbrella hiring entity, state and local officials facilitated health aide unionization. Progress has also been made by SEIU and HERE at organizing security and food and retail concession personnel at Los Angeles International Airport.⁵⁰ Tactics have included high-profile demonstrations and the obtaining of political support. Similar progress in unionization was made at the new Staples Center in downtown Los Angeles as the Democratic National Convention loomed in the summer of 2000.

The causes of wage inequality growth in California and Los Angeles are complex. And, as at the national level, the relative contributions of the various hypothesized causes are not well understood. De-unionization is undoubtedly part of the story, but not the whole story by any means. Thus, re-unionization, particularly if it were confined to a limited sector where JfJ tactics are effective, will not bring about wholesale changes in California's wage structure. Still, despite the dominance of federal labor law policy in matters related to unionization, the JfJ experience suggests that state law and the stance taken by local officials can assist in union organizing and bargaining efforts. But other public policies addressing wage inequality and the working poor generally have been limited. Thus, the JfJ campaign can be seen as a kind of private policy operating in a vacuum left by public policy.

Within the labor movement, the JfJ experience in Los Angeles helped spark a new emphasis on organizing and leadership changes within the AFL-CIO. It suggested that strikes can still be effective in organizing and bargaining if they are conducted in ways that harness public and political support. The JfJ experience changed union attitudes towards low-wage immigrants who are now seen as a potential base for union growth rather than as a barrier. SEIU, for example, now sees itself as a leader in political efforts to improve the legal status of undocumented workers and has shifted the policy of the AFL-CIO in this direction. By focusing media attention on organizing the immigrant working poor, the JfJ campaign produced renewed public interest in unions more generally as an important economic and social force in California and elsewhere.

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Table 1: Wages and Wage Adjustments Specified in 1995-2000 Maintenance Contractors Agreement: Cleaners

	4/1/95	9/1/95	4/1/96	9/1/96	4/1/97	4/1/98	4/1/99	2/1/00
Area 1								
Start	\$6.80	\$6.80	\$6.80	\$6.80	\$6.80	\$7.00	\$7.20	\$7.20
Minimum	\$6.80	\$6.80	\$6.80	\$6.80	\$6.80	\$7.00	\$7.20	\$7.20
Increase	\$0.15	\$0.00	\$0.15	\$0.00	\$0.15	\$0.25	\$0.30	\$0.00
Health	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Pension	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Area 2								
Start	\$5.40	\$5.40	\$5.50	\$5.50	\$5.65	\$5.90	\$6.30	\$6.30
Minimum	\$5.60	\$5.60	\$5.80	\$5.80	\$6.00	\$6.30	\$6.80	\$6.80
Increase	\$0.20	\$0.00	\$0.20	\$0.00	\$0.20	\$0.30	\$0.50	\$0.00
Health	<i>LT Area 1</i>	<i>LT Area 1</i>	<i>LT Area 1</i>	<i>LT Area 1</i>	<i>LT Area 1</i>	<i>LT Area 1</i>	<i>LT Area 1</i>	Yes
Pension	No	No	No	No	No	No	No	No
Area 2A								
Start	\$4.70	\$4.70	\$4.85	\$4.85	\$5.10	\$5.55	\$6.05	\$6.40
Minimum	\$4.95	\$4.95	\$5.20	\$5.20	\$5.75	\$6.30	\$6.80	\$6.80
Increase	\$0.25	\$0.00	\$0.25	\$0.00	\$5.55	\$0.55	\$0.50	\$0.00
Health	No	No	No	No	No	No	No	Yes
Pension	No	No	No	No	No	No	No	No
Area 3								
Start	\$4.70	\$4.70	\$4.85	\$4.85	\$5.10	\$5.55	\$6.05	\$6.40
Minimum	\$4.90	\$4.90	\$5.10	\$5.10	\$5.55	\$6.05	\$6.40	\$6.80
Increase	\$0.20	\$0.00	\$0.20	\$0.00	\$0.45	\$0.50	\$0.35	\$0.40
Health	No	No	No	No	No	No	No	Yes
Pension	No	No	No	No	No	No	No	No
Area 4								
Start	-	\$4.45	\$4.45	\$4.45	\$4.75	\$5.15	\$5.65	\$6.15
Minimum	-	\$4.45	\$4.45	\$4.75	\$5.15	\$5.65	\$6.15	\$6.80
Increase	\$0.00	\$0.20	\$0.00	\$0.30	\$0.40	\$0.50	\$0.50	\$0.65
Health	No	No	No	No	No	No	No	Yes
Pension	No	No	No	No	No	No	No	No
Area 5								
Start	-	\$4.50	\$4.50	\$4.50	\$4.65	\$4.90	\$5.20	\$5.20
Minimum	-	\$4.50	\$4.75	\$4.75	\$5.00	\$5.30	\$5.65	\$5.65
Increase	\$0.00	\$0.25	\$0.25	\$0.00	\$0.25	\$0.30	\$0.35	\$0.00
Health	No	No	No	No	No	No	No	No
Pension	No	No	No	No	No	No	No	No

Note 1: LT Area 1 = Health plan but less generous than Area 1

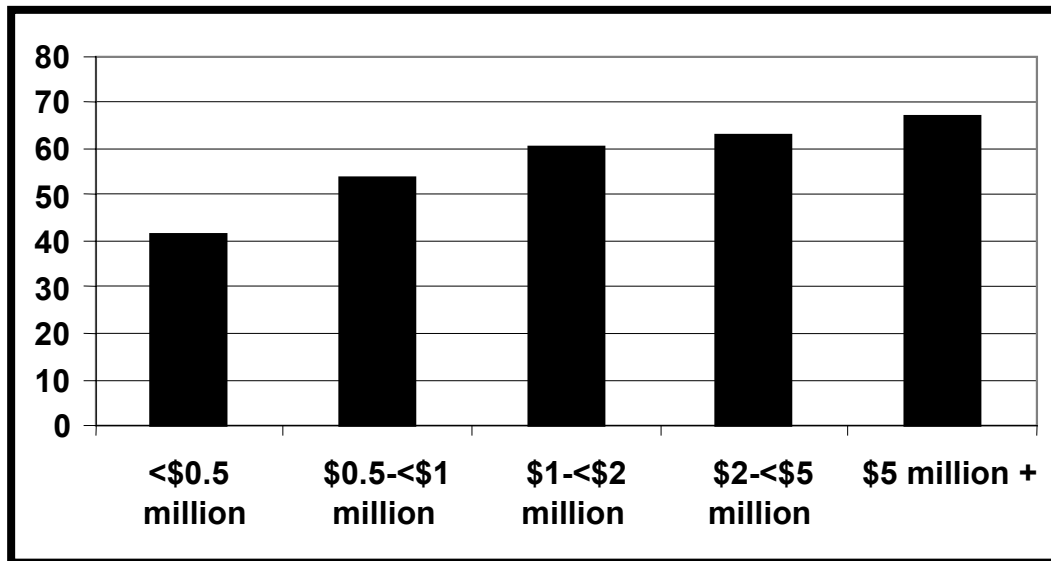
Note 2: Pension: Minimum of \$.10 or continuation of contributions of \$.33 or \$.35.

Note 3: Increase refers to existing employee receiving at or above minimum.

Table 2: Wages and Wage Adjustments Specified in 2000-2003 Maintenance Contractors Agreement: Cleaners

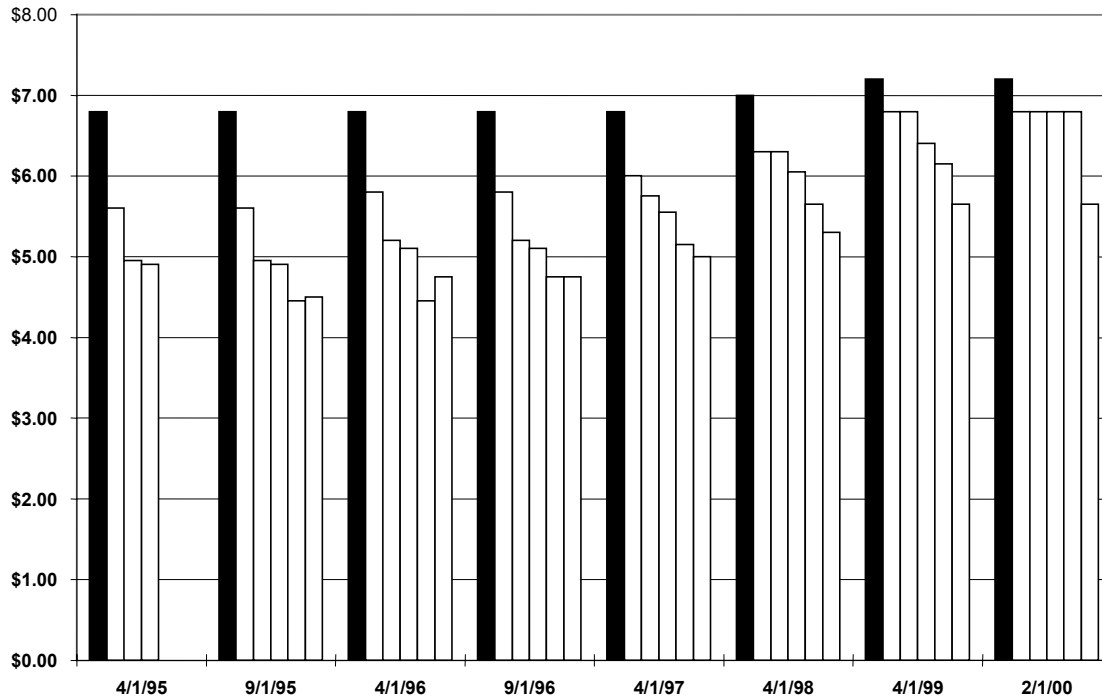
	4/1/00	5/1/00	10/1/00	4/1/01	4/1/02
Area 1					
Start	\$7.20	\$7.90			
Minimum	\$7.20	\$7.90	\$7.90	\$8.50	\$9.10
Increase	\$0.00	\$0.70	\$0.00	\$0.60	\$0.60
Health	Yes	Yes	Yes	Yes	Yes
Pension	Yes	Yes	Yes	Yes	Yes
Area 2					
Start	\$6.30	\$6.30	\$6.90		
Minimum	\$6.80	\$6.80	\$7.20	\$7.80	\$8.40
Increase	\$0.00	\$0.00	\$0.40	\$0.60	\$0.60
Health	Yes	Yes	Yes	Yes	Yes
Pension	No	No	No	No	No
Area 3					
Start	\$5.20	\$6.10			
Minimum	\$5.65	\$6.10	\$6.10	\$6.30	\$6.50
Increase	\$0.00	\$0.45	\$0.00	\$0.20	\$0.20
Health	No	No	No	No	No
Pension	No	No	No	No	No

Chart 1: Direct Labor Costs as Percent of Annual Sales Volume, 1998



Source: Building Service Contractors Association International, 1998

**Chart 2: Minimum Hourly Wage for Cleaners:
1995-2000 Maintenance Contractors Agreement**



Note: Bars from left to right refer to Areas 1, 2, 2A, 3, 4, and 5. No minimums were specified for Areas 4 and 5 until 9/1/95.

Area 1 = Downtown L.A., Century City

Area 2 = Wilshire Corridor, Beverly Hills, LAX, Westwood

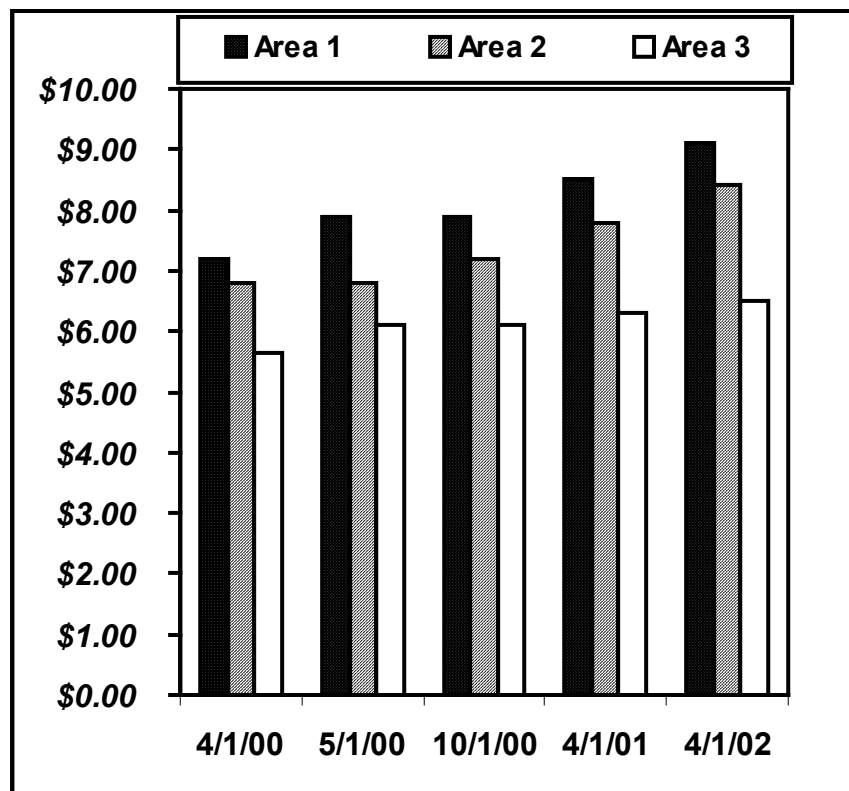
Area 2A = Santa Monica, Culver City

Area 3 = Pasadena, Hollywood, Long Beach, Glendale/Burbank, South Bay, Commerce

Area 4 = Studio City/Sherman Oaks, Woodland Hills/West Valley

Area 5 = Other areas of L.A. County

Chart 3: Minimum hourly wage for cleaners, 2000-2003 Maintenance Contractors' Agreement.



Note 1: Area definitions changed after the 1995-2000 contract:

Area 1: Downtown LA and Century City

Area 2: Wilshire Corridor, Beverly Hills, LAX, Westwood, Westside Area, Pasadena, Hollywood, Long Beach, Glendale/Burbank, South Bay, City of Commerce, Studio City/Sherman Oaks, Woodland Hills/West Valley.

Area 3: Greater Los Angeles County

Note 2: Start rates for 4/1/00 are from the 1995-2000 contract.

Footnotes

¹ This chapter is part of an ongoing research effort by the authors and others on the Justice for Janitors campaign in Los Angeles. Prior references to this effort are Fisk, Mitchell, and Erickson (2000) and Waldinger, Erickson, Milkman, Mitchell, Valenzuela, Wong, and Zeitlin (1998). In many sections, the authors relied on accounts from the news media especially the Los Angeles Times and the Daily Labor Report. Specific citations to articles from these media sources are made only when direct quotes or facts not readily available are drawn.

² At the federal level, changes in tax policy to make it more progressive might be proposed, including removing the cap on payroll taxes for Social Security. There is less scope for such changes at the state level because most payroll taxes are federal and because the federal income tax “take” as a percent of personal income is higher. California income taxes are quite progressive and tax receipts to the state are – as a result – quite sensitive to income developments at the higher tax brackets.

³ Figures cited in this section are taken mainly from the Current Population Survey, a monthly survey conducted by the federal government. They appear in various sources such as Employment and Earnings and the Statistical Abstract of the United States.

⁴ The film was made in 1999, i.e., before the year 2000 negotiations described below took place. It was nominated for the Golden Palm award at the Cannes film festival.

⁵ From the mid-1930s until the mid-1950s, organized labor in the U.S. was split between the more conservative American Federation of Labor (AFL) and the more radical Congress of Industrial Organizations (CIO) that had split off from the AFL. The two rival organizations merged in 1955 into the AFL-CIO.

⁶ The AFL was an umbrella organization of independent trade unions – organized mainly on a craft (occupational) basis – whose history goes back to the early 1880s. Its member organizations were given charters to organize in certain crafts throughout the U.S. In some cases, local unions would form and affiliate directly with the AFL until they could be parceled out to the existing national member unions.

⁷ Closed shop agreements – made illegal under the 1947 Taft-Hartley Act – required that employers hire only union members as employees. Current federal labor law permits “union shop” agreements except where prohibited by state statute. Under a union shop, the employer is free to hire anyone but the new hires must join the union within a specified time. In fact, because of various court decisions, even where union shop clauses exist, workers are free not to join the union but must still pay the union a portion of regular dues determined to reflect the costs of representation. An “open shop” is a workplace where no requirements for membership or dues exist, even if a union has representation rights in the unit.

⁸ The Great Depression of the 1930s led to substantial worker discontent and major expansion of unionization. Unions acquired legal support under the federal Wagner Act of 1935 that provided for representation elections to determine whether a group of workers wanted union representation. Once certified as the winner of such an election, a union became the exclusive bargaining agent for all workers in the union. Elections and other administrative aspects of the new law became the responsibility of the National Labor Relations Board. Many elements of this legislation remain in place.

⁹ The phrase “business unionism” is commonly used to refer to a labor organization focused on advancing the economic welfare of its members but without larger social or ideological concerns.

¹⁰ California had a long and unfortunate history of anti-Asian agitation and legislation. Organized labor had been linked to such activities, specially in San Francisco. Thus, Asian workers might well have been suspicious of unions and union organizing at the time.

¹¹ The chart’s data come from trade association estimates and appear to change notably from period to period, probably because of the unscientific nature of the survey. However, the economies of administrative scale phenomenon highlighted by the chart seem to be robust.

¹² Century City is so named because it was built on a section of the former movie lot of Twentieth Century Fox.

¹³ Bevona was later forced out of office by dissidents who wanted JfJ tactics used in New York City to avert membership losses. He retired amidst a scandal about a \$1.5 million severance package.

¹⁴ Under federal law, a union engaged in a secondary boycott may be subject to charges that it has committed an “unfair labor practice.” If the NLRB finds the union has committed such a practice, it will issue a “cease and desist” order requiring the union to stop the behavior.

¹⁵ Union contracts typically run for more than a year. Three-year durations are quite common. Multiyear agreements usually include staged wage and benefit improvements, often at the anniversary date of the agreement.

¹⁶ Although union contracts usually have a fixed duration, during which both parties are bound to the terms of the agreement, both sides can mutually agree to modify or scrap an existing contract before it expires.

¹⁷ One symbolic result of this view is that the AFL-CIO moved its biennial conventions to Los Angeles. They had previously been held at a Florida resort.

¹⁸ National unions may take control of local unions that have administrative problems through trusteeships. However, federal law regulates the process and tilts toward returning trusted locals to member control within a reasonable time.

¹⁹ Kaiser developed as an HMO in California during the 1930s and 1940s. Unions, once they began negotiating health care benefits, were supportive of the Kaiser approach, in part because Kaiser's fees are based on "capitation," i.e., a fixed fee per covered individual. With capitation, it is easier to price out the cost of the service during bargaining. Kaiser has an incentive to maintain the good will of the union movement since unions can be influential in obtaining business for the HMO.

²⁰ As noted above in the text, the contract with ISS after Century City was superseded by another contract also covering ABM. For ISS, therefore, the contract negotiated in 1995 was technically the third contract.

²¹ Employee organizations which are in fact created or supported by employers – often termed "company unions" – are banned by federal labor law. Prior to the mid-1930s, when modern labor relations law began to be enacted, employers often created such company unions to fend off organizing by independent unions.

²² San Francisco janitors are represented by the SEIU but not by Local 1877. The union claimed that the contractual seniority provisions obviated the need for a hiring hall. "SEIU, San Francisco Building Owners Agree to Four-Year Contract for Janitors," Daily Labor Report, August 4, 1999, p. A13.

²³ Ashcroft was involved in a widely-publicized libel suit against the Times of London. The newspaper had published allegations of money laundering at a bank in Belize that is part of his enterprise. After negotiations with Rupert Murdoch, whose New Corporation owns the Times, the suit was settled.

²⁴ Contreras became head of the Los Angeles County Federation of Labor in 1996, the first Latino in that position reflecting the changing demographics of the Los Angeles labor force.

²⁵ The USC dispute, which had gone on since 1995, involved the University's assertion of a right to contract out the jobs covered by an expired agreement with the Hotel Employees and Restaurant Employees. A compromise was reached that protected job security of the affected workers but that allowed subcontracting.

²⁶ Maguire is a political liberal who, for example, was a donor to Democrat Bill Bradley's unsuccessful campaign for his party's presidential nomination in 2000, according to Federal Election Commission records.

²⁷ Even in union shop situations, workers cannot be forced to become members due to various court decisions. If there is a union shop or agency shop clause in the contract, non-members must pay only the fraction of duties attributable to the union functioning as the bargaining representative. Hence, even without the paycheck protection proposition, workers could opt out of paying for political activities by dropping their union membership.

²⁸ "California Governor Signs Bills to Bolster Labor Laws, Limit Fund Use in Organizing," Daily Labor Report, October 3, 2000, p. A2.

²⁹ *San Diego Building Trades Council v. Garmon*, 359 U.S. 236 [1959] (federal law preempts state regulation of conduct that is arguably protected or arguably prohibited by federal law); *Farmer v. United Brotherhood of Carpenters and Joiners, Local 25*, 430 U.S. 290 [1977] (tort law is not preempted); *Sears, Roebuck & Co. v. San Diego County District Council of Carpenters*, 436 U.S. 180 [1978] (trespass law is not preempted).

³⁰ Later Supreme Court decisions have determined that the courts retained authority to enjoin unfair labor practices, including secondary boycotts. Norris was a Republican progressive senator from Nebraska. La Guardia was a Republican congressman from New York City and later the City's colorful mayor.

³¹ The *Daily Labor Report* carried reports of these various settlements.

³² GM, Ford, and DaimlerChrysler usually sign contracts that are virtually identical in terms of their basic conditions. The United Auto Workers selects one of the three companies as the target and, after settling with it, takes the pattern to the other two.

³³ Street protests were expected at the Democratic convention slated for Los Angeles. Overreaction by the police during the earlier janitors strike might have created anxiety about what would ensue at the convention, something the City wanted to avoid.

³⁴ The identity of the donor remains unknown to the union.

³⁵ Thanks to California's "progressive" political reform traditions, the mayor of Los Angeles is legally a non-partisan position, as are many local offices.

³⁶ Riordan could not run for an additional term as mayor due to term limits. However, as his mayoral term ended in 2001, he was reported to be considering a run for California governor.

³⁷ The Cardinal's actions in the janitors' strike effectively buried unpleasant memories of his role – noted earlier in the text – in a refusal by the Church to recognize a union of gravediggers in Catholic cemeteries in the 1980s.

³⁸ In situations in which employers join together for purposes of collective bargaining in the labor market, it is still the case that they are commercial rivals in the product market. Thus, disputes *within* the employer side where multiemployer bargaining is practiced are not uncommon.

³⁹ Although the contractors effectively negotiate as a group, after a settlement each contractor signs an individual – but identical – master agreement with the union.

⁴⁰ Smaller buildings are treated as Area 3, regardless of their geographic location.

⁴¹ These clauses – whose odd name derives from similar clauses found in international trade treaties – provide that one party or the other give the benefit of any more favorable agreements to its contractual partner. In this agreement, the clause applies to the union side.

⁴² In a standard arbitration system, the arbitrator holds a formal hearing on the grievance. The parties, often represented by lawyers, submit briefs, call witnesses, etc. After the hearing, the arbitrator writes a decision, often several weeks later. Under expedited arbitration, the hearing is much less formal and the arbitrator makes an immediate ruling from the bench.

⁴³ See footnote 6 for definition of a union shop. A checkoff clause provides that union dues are automatically deducted from a worker's paycheck and forwarded to the union. Management rights clauses are often placed in union agreements. They affirm management's right to run the business and carry out normal functions such as hiring, discipline, and discharge subject to any limitations that the contract otherwise provides.

⁴⁴ Dornan appealed his loss to the House of Representatives, claiming he was defeated by illegal non-citizen voters. But his appeal failed and Sanchez was seated.

⁴⁵ Unions often affiliate with local and state Central Labor Councils, especially to coordinate political activity.

⁴⁶ In a neutrality agreement, employers agree not to campaign against the union as the union seeks to organize workers.

⁴⁷ See footnote 48 below.

⁴⁸ The estimate is drawn from the national income accounts and input-output accounts.

⁴⁹ Under a card check agreement, the employer agrees to recognize the union on the basis of authorization cards signed by workers and presented by the union to management. A card check avoids the need for an NLRB election which can be a protracted affair, especially if contested by the employer. Employers can legally recognize unions on the basis of card checks so long as they have reasonable evidence that a majority of their workers want union representation.

⁵⁰ The airport is a public entity that is owned by the City of Los Angeles.